

Orissa Estates Abolition Act, 1951

1 of 1952

[09 February 1952]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- VESTING OF AN ESTATE IN THE STATE AND ITS CONSEQUENCES

3. Notification Vesting An Estate In The State
 - 3A. Vesting Of Intermediary Interest
 - 3B. Procedure Subsequent To Notification Under Section 3-A
 - 3 C . Application By Intermediaries Whose Estates Vested Under Section 3
4. Surrender Of An Estate By Agreement
5. Consequences Of Vesting Of An Estate In The State
- 6 . Homesteads Of Intermediaries And 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
7. Certain Other Lands In Khas Possession Of Intermediaries To Be Retained By Them On Payment Of Rent As Raiyats Having Occupancy Right
 - 7A. Settlement Of Land And Building
8. Continuity Of Tenure Of Tenants
 - 8A. Filing Of Claims Under Section 6, 7 And 8 And Dispute Relating Thereto
 - 8 B . Limitation For Realization Of Rent For Period Prior To Assessment
 - 8C. Application Of Section 6, 7, 7-A, 8-A And 8- B To Darmilla Inam
 - 8D. Constitution Of Tribunals
 - 8E. Disposal Of References
9. Appeal Against Collectors Order Under Sections 5, 6 Or 7
10. Mines Worked By The Intermediary
11. Subsisting Leases Of Mines And Minerals
12. Buildings And Lands Appurtenant To Mines
13. Mines Tribunal

CHAPTER 3 :- MANAGEMENT OF ESTATES VESTED IN THE STATE

14. Constitution Of Anchal Sasan

14A. Section 14A

15. Section 15

16. Section 16

17. Section 17

CHAPTER 4 :-PROVISIONSRELATING TO CERTAIN DEBTS OF INTERMEDIARY AND TO THE CLAIMS OF THE MAINTENANCE-HOLDER IN AN ESTATE

18. Time Within Which Secured Creditors And Maintenance-Holders May File Claims

19. Creditor Or Maintenance- Holder To Furnish Full Particulars And Documents

19A. Intimation Of The Claims By The Claims Officer

20. Determination Of Amount Due To Creditor & Maintenance-Holder And The Order Or Priority As Between Two Or More Creditors

20A. Claims Officer To Communicate Award

21. Appeal Against The Decision Of Claims Officer

22. Appellate Authorities And Procedure

CHAPTER 5 :- ASSESSMENT OF COMPENSATION

23. Appointment Of Compensation Officer

24. Compensation To Be Determined For Estate As A Whole

25. Powers Of Compensation Officer To Disregard Certain Trusts

26. "Previous Agricultural Year" And "Gross Asset" Defined

27. Computation Of Net Income

28. Rates Of Compensation

29. Provision Of Section 28 Not To Affect Any Agreement

30. Computation Of Compensation Payable For Mines And Minerals

31. Preliminary Publication Of Compensation Assessment-Roll

32. Appeal

32A. Second Appeal

32B. Revision

33. Final Publication Of The Compensation Assessment-Roll

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

35. Correction By Compensation Officer Of Bona Fide Mistakes

36. Determination Of Compensation For Premature Termination Of Lease Of Mines And Minerals

CHAPTER 6 :- PAYMENT OF COMPENSATION

37. Manner Of Payment Of Compensation

CHAPTER 7 :- MISCELLANEOUS

38. Interim Payment Of Compensation

38A. Review

- 38B. Revision
- 39. Bar To Jurisdiction Of Civil Courts In Certain Matters
- 40. Delegation
- 41. Protection Of Action Taken Under This Act
- 42. Collector, Claims Officer And Compensation Officer To Have Powers Of Civil Court And Inquiry Conducted By Them To Be Deemed To Be Judicial Proceeding
- 43. Power Of Collector, Claims Officer And Compensation Officer To Require Production Of Documents, Etc
- 44. Penalties
- 45. Certain Educational Or Charitable Institutions To Be Maintained By Government
- 46. Vesting Of Estates Under Management Of Government
- 47. Power To Make Rules
- 48. Repeal
- 49. Saving In Respect Of Certain Right And Pending Proceedings
- 50. Power Remove To Difficulties

Orissa Estates Abolition Act, 1951

1 of 1952

[09 February 1952]

AN ACT TO PROVIDE FOR THE ABOLITION OF ALL THE RIGHTS, TITLE AND INTEREST IN LAND OF INTERMEDIARIES BY WHATEVER NAME KNOWN, INCLUDING THE MORTGAGEES AND LESSEES OF SUCH INTEREST BETWEEN THE RAIYAT AND THE STATE OF ORISSA, FOR VESTING IN THE SAID STATE OF THE SAID RIGHT, TITLE AND INTEREST AND TO MAKE PROVISION FOR OTHER MATTER CONNECTED THEREWITH.

WHEREAS in pursuance of the Directive Principles of State Policy laid down by the Constitution of India it is incumbent on the State to secure economic justice for all and to that end to secure the ownership and control of all material resources of the community so that they may best subserve the common good, and to prevent the concentration of wealth and means of production to the common detriment;

And whereas in order to enable the State to discharge the above obligation, it is expedient to provide for the abolition of all rights, title and interest in land of Intermediaries by whatever name known, including the mortgagees and lessees of such interest, between the raiyat and the State of Orissa, for vesting in the said State of the said rights, title and interest and to make provision for other matters connected therewith;

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Estates Abolition Act, 1951.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force at once.

2. Definitions :-

In this Act unless there is anything repugnant in the subject or context -

(a) "Agricultural year" means, where the Oriya year prevails, the year commencing on the first day of Baisakh of the Oriya year, where the Fasli year prevails, the year commencing on the first day of July and where any other year prevails for agricultural purposes, that year;

Explanation - In the event of any question as to the particular agricultural year in any area or estate the notification by the Board of Revenue on this behalf shall be conclusive;

(b) "Board" means the Board constituted under Section 22;

(c) "Claims Officer" means the Claims Officer appointed under sub-section (1) of Section 18;

(d) "Collector" includes any Officer, 1 (***) appointed by the State Government to discharge all or any of the functions of a Collector under this Act;

(e) "Compensation Officer" means the Compensation Officer appointed under Section 23;

2[(f) "Date of vesting" means, in relation to an estate vested in the State, the date of publication in the Gazette of the notification under sub-section (1) of Section 3 3[or sub-section (1) of Section 3-A] in respect of such estate and in the case of surrender by an Intermediary under Section 4 the date of the execution of the agreement];

4[(ff)"District Judge" and Subordinate Judge shall respectively include an Additional District Judge and an Additional Subordinate Judge];

5[(g) "Estate" includes a part of an estate and means any land held by or vested in an Intermediary and included under one entry in any revenue roll or any of the general registers of revenue paying lands and revenue free lands, prepared and maintained under the law relating to the land revenue for the time being in force or under any rule, order, custom or usage having the force of law and

includes revenue free lands not entered in any register or revenue roll and all classes of tenures or under-tenures and any jagir, inam or maufi or other similar grant;

Explanation I - Land revenue means all sums and payments in money or in kind, by whatever name designated or locally known, received or claimable by or on behalf of the State from an Intermediary on account of or in relation to any land held by or vested in such Intermediary;

Explanation II - Revenue-free land includes land which is, or but for any special covenant, agreement, engagement or contract would have been, liable to settlement and assessment of land revenue or with respect to which the State has power to make laws for settlement and assessment of land revenue;

Explanation III - In relation to merged territories estate as defined in this clause shall also include any mahal or village or collection of more than one such mahal or village held by or vested in an intermediary which has been or is liable to be assessed as one unit to land revenue where such land revenue be payable or has been released or compounds for or redeemed in whole in part.

5[(h) Intermediary with reference to any estate means a proprietor, sub-proprietor, landlord, land holder, malguzar, thikadar, gaontia, tenureholder, under-tenure holder and includes a n inamdar, a jagirdar, Zamindar, Illaquedar, Khorposhdar, Parganadar, Sarbarakar and Maufidar including the ruler of an Indian State merged with the State of Orissa and all other holders or owners of interest in land between the raiyat and the State;

Explanation I - Any two or more Intermediaries holding a joint interest in an estate which is borne either on the revenue roll or on the rent roll of another Intermediary shall be deemed to be one Intermediary for the purposes of this Act;

Explanation II - The heirs and successors-in -interest of an Intermediary and where an Intermediary is a minor or of unsound mind or an idiot, his guardian, Committee or other legal curator shall be deemed to be an Intermediary for the purposes of this Act. All acts done by an Intermediary under this Act shall be deemed to have been done by his heirs and successors-in -interest and shall be binding on them];

6[(hh) Intermediary interest means an estate or any rights or interest therein held or owned by or vested in an Intermediary and any reference to estate in this Act shall be construed as including a reference to Intermediary Interest also];

(i) "Homestead" means a dwelling house used by the Intermediary

for the purposes of his own residence or for the purposes of letting out on rent together with any Courtyard, compound, garden, orchard and out-buildings attached thereto and includes any tank, library and place of worship appertaining to such dwelling house but does not include any building comprised in such estate and used primarily as office or kutchery for the administration of the estate on and from the 1st day of January, 1946.

(j) "Khas possession" used with reference to the possession of an Intermediary of any land used for agricultural or horticultural purposes, means the possession of such intermediary 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 vegetable;

(k) "Lease" in relation to mines and minerals, shall include a sub-lease, a prospecting lease and an agreement to lease and sublet and lessee shall be construed accordingly;

(l) "Mines" 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; 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 (Act 4 of 1923) 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;

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

(n) raiyat means any person holding the land for the purpose of cultivation and who has acquired the right of occupancy according to the tenancy law or rules for the time being in force in that area or in the absence of such law or rules, the custom prevalent in that area;

7(o) trust means a trust as defined in Section 3 of the Indian Trusts Act, 1882 (Act II of 1882) and shall include an express or constructive trust existing for a public purpose of a charitable or religious nature and a Hindu, Muslim, Christian, Buddhist or any other religious or charitable endowment;

(oo) trust estate means an estate the whole of the net income whereof under any trust or other legal obligation has been dedicated exclusively to charitable or religious purposes of a public nature without any reservation of pecuniary benefit to any

individual:

Provided that all estates belonging to the Temple of Lord Jagannath at Puri within the meaning of the Shri Jagannath Temple Act, 1955 and all estates declared to be trust estates by a competent authority under this Act prior to the date of coming into force of the Orissa Estates Abolition (Amendment) Act, 1970 shall be deemed to be trust estates.

Explanation - The salary, remuneration or any allowance payable to a Mutawali in the case of a Hindu religious trust, not exceeding fifteen per centum of the income dedicated exclusively to charitable or religious purposes shall not be deemed to be reservation of a pecuniary benefit to any individual within the meaning of this clause."

(p) "Board of Revenue" means the Board of Revenue as constituted under Section 2 of the Orissa Board of Revenue Act, 1951 (Orissa Act 23 of 1951); and

(q) all words and expressions used in this Act, but not defined in it, shall have with reference to any part of the State of Orissa, the same meaning as defined in the tenancy laws and rules for the time being in force and in the absence of written laws and rules as recognized in the custom for the time being obtaining in that part of the State of Orissa.

1. Omitted by the Orissa Estate Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 2

2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952) s. 2, (i)

3. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 2 (ii)

4. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 2

5. Substituted by the Orissa Estates Abolition (Amendment) Act, 1954 (Orissa Act XVII of 1954) s. 2, (i)

6. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956) s. 2 (iv)

7. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Presidents Act No. 3 of 1974) s. 2 read with Orissa Act 13 of 1975.

CHAPTER 2 VESTING OF AN ESTATE IN THE STATE AND ITS CONSEQUENCES

3. Notification Vesting An Estate In The State :-

(1) The State Government, may from time to time by notification,

declare that the estate 1(**) specified in the notification has passed to and become vested in the State free from all encumbrances.

2. The notification referred to in sub-section (1) shall contain particulars of the estate including the tauzi number, if any and the name and the address of the Intermediary as recorded in the registers maintained by the Collector or as far as is otherwise ascertainable by him and shall be published in the Gazette 2(**) and shall be affixed in a conspicuous place for a period of not less than fifteen clear days in the office of the Collector.

3. Such publication shall be conclusive evidence of the notice of the declaration to every body whose interest is affected by it.

1. Omitted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952) s.3

2. Omitted by the Orissa Estate Abolition (Amendment) Act, 1953 (Orissa Act II of 1953) s.2

3A. Vesting Of Intermediary Interest :-

1[(1) Without prejudice to the powers under the last preceding section, the State Government may by notification declare that the intermediary interests of all Intermediaries or a class of intermediaries in the whole or a part of the estate have passed to and become vested in the State free from all encumbrances.

2. The notification referred to in sub-section (1) shall be published in the Gazette and on such publication shall be conclusive evidence of the notice of the declaration to everybody whose interest is affected thereby.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1955 (Orissa Act 15 of 1956) s.3

3B. Procedure Subsequent To Notification Under Section 3-A :-

(1) Without prejudice to the provisions of sub-section (2) of Section 3-A, the substance of the notification issued under the said section shall, as soon as may be, after the date of the publication thereof, be proclaimed by beat of drum in all the villages in the whole of the State or as the case may be, in such part thereof to which the notification relates and such proclamation shall also call upon all the intermediaries generally, whose interests are affected, to comply with the requirements laid down in the following sub-sections.

2. On the publication of a notification under Section 3- A all the

Intermediaries whose interests are affected thereby shall, before the expiry of three months from the date of the said notification, apply to the Collector in the Form set out in the schedule hereto annexed.

3. 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 under 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 withheld any material information or particular 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 had made no other application claiming compensation under this Act.

(4) If any intermediary fails, without sufficient cause, to make the application to the Collector or to file the documents, certificate and declaration required by sub-section (3) within the period specified in sub-section (2) 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 be extended to fifty rupees for every day subject to a maximum of total penalty of one thousand rupees after the expiration of the 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 realized as an arrear of land revenue.

(5) 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.

(6) 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 he ordinarily resides, furnish particulars and documents in respect of his intermediary interests in other parts of the State and shall state in his applications to the Collectors of all other districts in which his interests lie that the particulars and documents have been so furnished.

3C. Application By Intermediaries Whose Estates Vested Under Section 3 :-

An intermediary in relation to an estate vested in the State Government in pursuance of a notification under Section 3, whether or not his name is included in the list of names of the intermediaries published in the said notification, shall within a period of three months from the date of commencement of the Orissa Estates Abolition (Amendment) Act, 1956, or from the date of the said notification, whichever is later, apply to the Collector in the form set out in the schedule hereto annexed and the provisions of sub-sections (3), (4), (5) and (6) of Section 3- B shall apply to every such intermediary.

4. Surrender Of An Estate By Agreement :-

1[(1) At any time prior to issue of the notification under sub-section (1) of Section 3, the State Government may, by notification in the Gazette, invite from intermediaries as are proprietors of permanently settled estates and intermediaries governed by the law of primogeniture, in respect of the areas specified in the said notification, proposals for surrender of their respective estates, to be received within a period of one month from the date of such notification in the Gazette. Such proposals shall be in writing and shall contain specific terms and conditions on which the surrender is proposed to be made. The State Government may thereupon intimate their decision to the said Intermediaries within a month from the date of receipt of said proposals whether the said proposals shall be taken into consideration or not by the State Government and such decision shall be final and shall not be called in question in any court of law.

(2) If the State Government decide to consider any of the aforesaid proposals the Intermediaries with respect to such proposals, may by written agreement, surrender in return for compensation in the form of such perpetual annuity and on such terms and conditions as may be fixed in the said agreement and thereupon all the consequences enumerated in Section 5 shall ensure immediately; Provided that the said perpetual annuity shall not exceed a sum equivalent to three and a half percentum of the amount of compensation which in the opinion of the Board of Revenue would be payable under Section 28.

1. Substituted by the Orissa Estates Abolition (Amendment) Act,

5. Consequences Of Vesting Of An Estate In The State :-

Notwithstanding anything contained in any other law for the time being in force or in any contract, on the publication of the notification 1[in the Gazette] under sub-section (1) of Section 3, 2[or sub-section (1) of Section 3-A] 3[or from the date of the execution of the agreement under Section 4, as the case may be] the following consequences shall ensue namely:-

(a) Subject to the subsequent provisions of this Chapter the entire estate including all communal lands and porambokes, other non-raiyati lands, waste lands, trees, orchards, pasture lands, forests, mines and minerals (whether discovered or undiscovered, or whether being worked or not, inclusive of rights in respect of any lease of mines and minerals) quarries, rivers and streams, tanks and other irrigation works, water channels, fisheries, ferries, hats and bazaars and buildings or structures together with the land on which they stand shall vest absolutely in the State Government free from all encumbrances and such Intermediary shall cease to have any interest in such estate other than the interest expressly saved by or under the provisions of this Act:

4[Explanation - "Encumbrance" means a mortgage of or a charge on any estate or part thereof and includes any rights in land or other immovable property comprised in an estate but does not include an intermediary interest or the interest of a raiyat or an under-raiyat].

5[(b) All rents, cesses, royalties and other dues accruing in respect of lands comprised in such estate on or after the date of vesting shall be payable to the State Government and not to the outgoing Intermediary and any payment made in contravention of this clause shall not be valid discharge, 6[and all such rents, cesses, royalties and other dues shall be recoverable as arrears of land revenue]:

7[Provided that where the date of vesting falls within the period to which the dues relate only such proportion of the dues shall be payable as the period being with the said date and ending with the period aforesaid bears to the whole of the period;

Provided further that any part of such dues appropriated by the Intermediary beyond what may be found due to him in accordance with the provisions of this clause may be recovered by the State Government as arrears of land revenue, 8[or by the deduction of the amount from the compensation payable to such intermediary]:

Provided also that the payment of any amount on account of any such rents, cesses, royalties and other dues made to the outgoing Intermediary in pursuance of the orders of any Court of Law shall constitute a valid discharge.

(c)9 [x x x x]

(d) All arrears of revenue and cesses remaining lawfully due on the date of vesting 10[and all other dues payable to the State Government] in respect of any such estate and [* * * *] 11 recoverable as arrear of land revenue shall, after such date, be recoverable and continue to be so recoverable from the outgoing intermediary by whom they were payable 12[* * *] 13[* * *]

14[Provided that all arrears and other dues as aforesaid together with interest, if any, as may be lawfully due thereon on the date of vesting shall on that stand adjust towards the amount of compensation payable to such Intermediary.

15[Explanation - The expression arrears of revenue and cess in relation to an estate vested in the State, as all mean the amount of land revenue and the amount of cess in respect of such estate for any period prior to the date of vesting, which amount shall bear the same proportion to the total amount of land revenue or, as the case may be, to the total amount of cess, of such estate payable for the whole year as the period prior to the date of vesting, bears to the whole year.

(e) No suit shall lie in any Civil Court in respect of any money due from such intermediary the payment of which is secure by a mortgage of or is a charge on such estate and all suits, executions and other proceedings in respect of the mortgage or charge which be pending on the date of vesting shall be 16[dropped];

17[Provided that in cases of suits, executions and other proceedings referred to above in which the validity of the claim under the mortgage or the charge is disputed by the intermediary the said court shall, instead of dropping suits, hear and dispose them of];

(f) No such estate shall be liable to attachment or sale under the processes of any court and any order of attachment passed in respect of such estate prior to the date of vesting shall, with effect from the date of vesting, cease to have any effect;

(g) The Collector or any other officer appointed by him shall take charge of such estate and of all interests vested in the State Government under this section:

(h) Where, by operation of this Act, the right to the possession of any estate or any part thereof vests in the State Government, the

Collector may, by written order served in the prescribed manner, require any person in possession of such estate or any part thereof to give up possession of the same by a date specified in the order, and it shall be competent for the Collector to take, or cause to be taken, such steps as, in the opinion of the Collector, may be necessary for securing compliance with the said order or preventing any breach of the peace.

18[The Collector shall also determine the amount, if any, payable by such person on account of any damage, destruction or deterioration in value of such estate or part thereof as a result of such possession after the date of vesting and the amount so determined shall be realised as arrears of land revenue:

Provided that no order for payment of the amount aforesaid shall be passed unless the person concerned has been given a reasonable opportunity of being heard].

(i) Where the Collector is satisfied in respect of the settlement of lease of any land or mines or minerals comprised in such estate 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 as rest houses for estate servants on duty or as golas for storing rent in kind or part thereof, made or created at any time after the 1st day of January, 1946, that such settlement, lease or transfer was made with the object of defeating any provisions of this Act or obtaining higher compensation thereunder, he shall have power to make enquiries in respect of such settlement, lease or transfer and may, after giving reasonable notice to the parties concerned to appear and be heard, set aside any such settlement, lease or transfer, disposes the person claiming under it and take possession of such property in the manner provided in clause (h) on such terms as may appear to him to be fair and equitable:

Provided that in case where the Collector decides not to set aside any such settlement, lease or transfer he shall refer the case to the Board of Revenue for confirmation of the settlement, lease or transfer and the orders passed by the Board of Revenue in this behalf shall be final:

19[Provided further that the period of limitation for the realization by the State Government of dues in respect of such of the leases, settlements, or transfers as have been the subject matter of an inquiry under this clause, shall, with respect to the period after the date of vesting, be three years from the date of order setting aside or confirming the same, made by the Collector or by the Board of Revenue, as the case may be, unless a longer period of limitation is

applicable in respect of such dues under any other law for the time being in force in relation to such lease, settlement or transfer];

(j) After serving a notice in writing on the Intermediary for the production of all such accounts, registers, maps, plans and other documents and papers as are in his opinion necessary for the administration and management of the estate and if such notice is not complied with within the time fixed or such further time as the Collector may allow, it shall be lawful for the Collector or any Officer not being below the rank of a Sub-Deputy Collector authorized 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 all such accounts, registers, maps, plans and such other documents and papers and the Intermediary shall get a copy of the list of such papers seized and may also have access to the papers if he needs them for preferring his claim for compensation.

20[(k) With effect from the date of vesting or the date of commencement of the Orissa Estates Abolition (Amendment) Act, 1956 which ever date comes later, all contracts for gathering of produce from land or for collection of produce or fish from forests or fisheries or collection of fees or tolls from hats, bazaars, ferries and such other sairat interests lying within the estate entered into between an Intermediary and any other person shall, notwithstanding anything in any judgment; decree or orders of any court, become void:

Provided that where the person concerned has enjoyed his rights under any such contract during any period after the date of vesting but before the date of commencement of the aforesaid Act the Collector shall order a deduction from the total amount of compensation payable to the intermediary an amount which bears the same proportion to the value of the total benefits contracted for by the Intermediary as the aforesaid period bears to the total period of such contract and the amount to be so deducted shall be determined by the Collector after such inquiry as the State Government may by rules prescribe;

Provided further that no suit or other legal proceeding shall lie or shall be proceeded with against the State for any damage caused or likely to be caused in relation to any such contract in respect of the period aforesaid by virtue of anything done or purporting to have been done in pursuance of the provisions of this Act or any rules made thereunder.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. 5(i)

2. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 4(i)
3. Added by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. 5(ii)
4. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 4(ii)
5. Substituted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. (iii)
6. Inserted by *ibid.* s. 5 (iv)
7. Added by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 4(iii)
8. Added by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 2(a)
9. Omitted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act 18 of 1952), s. 5. (v).
10. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 4 (iv) (a).
11. Omitted by *ibid.*
12. Omitted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 3.
13. Omitted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 2(b).
14. Inserted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 3 (iv) (a).
15. Added by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 4(iv) (b).
16. Substituted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 2(i) for "stayed".
17. Added by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 2(ii).
18. Added by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956) s. 4(v)
19. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956) s. 4 (vi)
20. Inserted by *ibid.* 4 (vii)

6. Homesteads Of Intermediaries And 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) With effect from the date of vesting, all homesteads comprised

in an estate and being in the possession of an Intermediary on the date of such vesting, such buildings or structures together with the lands on which they stand, other than any buildings used primarily as offices or kutcheries or rest houses for estate servants on duty as were in the possession of an Intermediary at the commencement of this Act and used as golas (other than golas used primarily for storing rent in kind) factories or mills for the purpose of trade, manufacture or commerce, or used for storing grains or keeping cattle or implements for the aforesaid purposes before the 1st day of January, 1946, shall notwithstanding anything contained in this Act, be deemed to be settled by the State Government with such Intermediary and with all the share-holders owning the estate, who shall be entitled to retain possession of such homesteads and of such buildings or structures together with the lands on which they stand, as tenants under the State Government subject to the payment of such fair and equitable ground rent as may be determined by the Collector in the prescribed manner:

Provided that where the Intermediaries have come to any settlement among themselves regarding the occupation of buildings and file a statement to that effect before the Collector, the building shall deemed to have been settled with the Intermediaries according to that settlement:

Provided further that homesteads in actual possession of the Intermediary shall be settled with him free of ground rent in those areas where no ground rent is charged under the existing law on homestead lands.

2. 1[x x x x]

3. Notwithstanding anything contained in sub-section (1) where an Intermediary constructed a building or structure in his estate after the 1st day of January, 1946 and used it on the date of vesting for the purpose mentioned in sub-section (1), he may be entitled to retain possession of such building or structure together with the land on which it stands as a tenant under the State Government subject to the payment of ground rent as provided in sub-section (1) only if the Collector, after enquiry, is satisfied that it is constructed or used for a bona fide purpose and not with a view to defeat the provisions of Section 5 of this Act.

1. Omitted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956) s. 5

7. Certain Other Lands In Khas Possession Of Intermediaries To Be Retained By Them On Payment Of

Rent As Raiyats Having Occupancy Right :-

(1) On and from the date of vesting -

(a) all lands used for agricultural or horticultural purposes which were in khas possession of an Intermediary on the date of such vesting.

(b) lands used for agricultural or horticultural purposes and held by a temporary lessee or lessees of an Intermediary who owns either as Intermediary or in any other capacity less than thirty-three acres of land in total extent situated within the State.

(c) lands used for agricultural or horticultural purposes and in possession of a mortgagee which immediately before the execution of the mortgage bond were in khas possession of such Intermediary shall, notwithstanding anything contained in this Act, be deemed to be settled by the State Government with such Intermediary and with all the share holders owning the estate and such Intermediary with all the shareholders shall be entitled to retain possession thereof and hold them as raiyats under the State Government 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:

1[(d) In the case of a trust estate, so much of the waste land such of the tanks in the possession of the Intermediary, which in both cases were being exclusively used for religious purposes immediately before the date of such vesting as may be specified -

(i) in respect of trusts governed by the Orissa Hindu Religious Endowments Act, 1951 (Orissa Act 2 of 1952) and Shri Jagannath Temple Act, 1955 (Orissa Act II of 1955), by the Commissioner of Endowments appointed under the Orissa Hindu Religious Endowments Act, 1951.

(ii) in respect of trusts governed by the Wakfs Act, 29 of 1954, by the Board of wakfs constituted thereunder; and

(iii) in respect of other religious trusts, by such persons or authority as may be specified by the Collector of the district for the purpose].

Provided that where the Intermediaries have come to any settlement among themselves regarding occupation of lands and file a statement to that effect before that Collector, the land shall be deemed to have been settled with the Intermediaries according to that settlement.

2["Provided further that where any land or tank referred to in clause (d) is deemed to be settled under this section such settlement shall also be subject to such terms and conditions as

may be prescribed."]

3 & 4["Provided also that the restriction regarding the total extent of land in the ownership of an Intermediary provided under clause (b) shall not apply in relation to a trust estate belonging to a deity of a religious institution (not being a Math within the meaning of the Orissa Hindu Religious Endowments Act, 1951) which vested in the State on or after the 18th day of March, 1974.

Provided also that no land held by a temporary lessee of an Intermediary in respect of which such lessee has acquired the rights of a raiyat under the Orissa Land Reforms Act, 1960 prior to the commencement of the Orissa Estates Abolition (Amendment) Act, 1978, shall be settled with the Intermediary under clause (b)."]

5[(2) x x x x]

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975)

2. Inserted by ibid

3. Added by Orissa Estates Abolition (Amendment) Act, 1978 (Orissa Act 25 of 1978)

4. Substituted by the Orissa Estates Abolition (Amendment) Act, 1979 (Orissa Act 22 of 1979)

5. Omitted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956.)

7A. Settlement Of Land And Building :-

1[2[(1) If the State Government are of the opinion that any land, whether used for the purposes of hat, bazaar, orchard, mine, quarry or otherwise, tank or building (being part of a trust estate) vested in the State Government is needed for carrying out the purposes of the trust efficiently, then, notwithstanding anything contained in any other law for the time being in force, or in any other provision of this Act, the State Government may settle such land, tank or building with the person who immediately before such vesting was an Intermediary in respect of such land or tank or building, subject to the payment of such fair and equitable rent as may be determined by the Collector in the prescribed manner and subject to such other terms and conditions as may be prescribed.

Provided that no such land, tank or building shall be settled under this Section -

(i) after the expiry of a period of 3&4 (thirteen years) from the date of commencement of the Orissa Estate Abolition (Amendment)

Act, 1978.

(ii) if such land, tank or building is held by a tenant; or

(iii) if such land, tank or building has already been settled by Government with any other person.

(2) The intermediary with whom any property is settled under sub-section (1) shall hold the property as a raiyat if the property is settled for agricultural purposes and as a tenant in other cases.]

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975.)

2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1978 (Orissa Act 25 of 1978.)

3. Substituted by the Orissa Estates Abolition (Amendment) Act, 1981 (Orissa Act 24 of 1981.)

4. Substituted by the Orissa Estates Abolition (Amendment) Act, 1984 (Orissa Act 25 of 1984.)

8. Continuity Of Tenure Of Tenants :-

(1) Any person who immediately before the date of vesting of an estate in the State Government was in possession of any holding as a tenant under an Intermediary shall, on and from the date of vesting, be deemed to be a tenant of the State Government and such person shall hold the land in the same rights and subject to the same restrictions and liabilities as he was entitled or subject to, immediately before the date of vesting.

1["(2) Any person who immediately before the date of coming into force of the Orissa Estates Abolition (Amendment) Act, 13 of 1986 held land under Government for rendering service as a village servant by whatever name called shall from the date of coming into force of the said Act be discharged from the conditions of such service and the land shall be settled with him with occupancy right in such rent as may be determined by the Collector in the prescribed manner].

(3) Any person who immediately before the date of vesting held land under an Intermediary on favourable terms for personal service rendered by him to such Intermediary shall, from the date of vesting, be discharged from the conditions of such service and the land may be settled with him in such manner and under such terms and conditions as may be prescribed:

2[Provided that nothing in sub-section (3) shall apply to a trust estate which is vested in the state on or after the date of coming into force of the Orissa Estates Abolition (Amendment) Act, 1970.]

3[* * *]

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1986 (Orissa Act 13 of 1986)
2. Inserted by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970)
3. Omitted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975)

8A. Filing Of Claims Under Section 6, 7 And 8 And Dispute Relating Thereto :-

1[(1) The Intermediary shall file his claim in the prescribed manners for settlement of fair and equitable rent in respect of lands and building which are deemed to be settled with him under Section 6 or Section 7 before the Collector within 2(six) months from the date of vesting:

3[(1-A) Any person who is discharged from the conditions of village service under subsection (2) of Section 8 may file his claim before the Collector in the prescribed manner for settlement of the land held by him under the conditions of village service within six months from the date of commencement of the Orissa Abolition (Amendment) Act, 13 of 1986.]

(2) Any person who is discharged from the conditions of personal service under subsection (3) of Section 8 may file his claim in the prescribed manner before the Collector within 2(six) months from the date of vesting for settlement of the lands held under the terms and conditions of such service:

4[Provided that the Collector shall, as soon as may be after any such claim under subsection (1) or sub-section (2) is filed, give public notice thereof by beat of drum in the appropriate locality and by placards posted at such conspicuous places as he deems fit inviting objection from persons interested:]

5[Provided further that in respect of estates which have vested in the State Government prior to the date of commencement of the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958) the claims mentioned in sub-section (1) and (2) shall be filed before the Collector within a period of six months from the said date:

6[Provided also that the State Government may further extend the period specified in the last preceding proviso up to a maximum period of one year for any sufficient cause in any case or cases:]

7"[Provided also that claims on behalf of an Intermediary in respect

of any estate which has vested in the State Government on or after the 18th day of March, 1974 but before the date of commencement of the Orissa Estates Abolition (Amendment) Act, 1974, may, where such claim relates to a trust estate, be filed before the Collector within a period of six months from the date of commencement of the said Act:

Provided also that any such claim as aforesaid which has been filed after the 18th day of September, 1974 and before the date of commencement of the said Act shall, for all purposes, be treated as a claim filed within the period of limitation.]

Provided also that where the Intermediary considers it necessary to file a claim, or as the case may be, a revised claim as a consequence of the amendment of this Act by the Orissa Estates Abolition (Amendment) Act, 1978, he shall file such claim or revised claim within one year from the commencement of the said Act.

(3) On the failure of filing the claims within the period specified under this section the provisions of clause (h) of section 5 shall, notwithstanding anything to the contrary in sections 6, 7 and 8, apply as if the right to possession of the lands or buildings or structures, as the case may be had vested in the State Government by the operation of this Act and thereupon the right to make any such claim as aforesaid shall stand extinguished:

Provided that when such failure is due to the pendency of proceedings in a Court of Law in which the validity of any notification under section 3 or 3-A is in dispute, the State Government may by order specially made in that behalf, extend the period for filing of the claim.

(4) Any person disputing, the claim as to the extent or possession of such lands or buildings or structures, as the case may be, may file an objection before the Collector within three months from the date of the 4(public notice) under sub-section (2) of such claim and the Collector shall, prior to the determination of rent under sections 6, 7 and 8, enquire into the matter in the manner prescribed and pass such order as he deems just and proper.

8[(5) Without prejudice to the provisions, contained in sub-section (4), where a claim in respect of any estate is made by the Intermediary on the ground that it is a trust estate, the Collector shall, whether or not any objection is filed under the said sub-section, make a reference to the Tribunal constituted under section 8-D for determining whether the estate is a trust estate or not and shall act according to the orders passed by the said Tribunal:

Provided that in the case any estate referred to in the proviso to

clause (oo) of section 2, no such reference shall be necessary.]

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956)
2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1963 (Orissa Act 5 of 1963)
3. Inserted by the Orissa Estates Abolition (Amendment) Act, 1986 (Orissa Act 13 of 1986)
4. Substituted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957)
5. Substituted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 3 of 1958)
6. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 8 of 1975)
7. Inserted by the Orissa Estates Abolition (Amendment) Act, 1978 (Orissa Act 25 of 1978)
8. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975)

8B. Limitation For Realization Of Rent For Period Prior To Assessment :-

Notwithstanding anything contained in any other law for the time being in force the fair and equitable rent determined by the Collector in respect of lands, buildings, or structures settled with the Intermediaries or any other person, as the case may be under Section 6, 7 and 8 shall for the period prior to the date of assessment of such rent, be realisable by the State Government within a period of 1[ten years] from the said date.

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1973

8C. Application Of Section 6, 7, 7-A, 8-A And 8- B To Darmilla Inam :-

1[2[The provisions of Section 6, 7, 7-A, 8- A and 8- B shall apply in respect of an Inamdar of a minor Darmilla Inam which has vested along with the parent estate as if such Inam were an estate vested separately:

Provided that where such vesting has taken place prior to the date of coming into force of the Orissa Estates Abolition (Amendment) Act, 1960 the claims mentioned in sub-section (1) of Section 8-A shall be filed before the collector not later than the date of expiry of a period of three months from the said date.

Explanation - Minor Darmilla Inam means a grant locally known as such of a post settlement minor Inam in the districts of Ganjam and Koraput.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961)

2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975)

8D. Constitution Of Tribunals :-

1[(1) For the purpose of determining whether an estate is a trust estate or not, the State Government may, by notification constitute one or more Tribunals having such local jurisdiction as may be specified in such notification.

(2) The Tribunal shall consist of one member to be appointed by the State Government from among the officers of the Judicial Service not below the rank of a Subordinate Judge.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974 (Orissa Act 13 of 1975)

8E. Disposal Of References :-

(1) The Tribunal shall in accordance with the rules made in that behalf, publish in such a manner as may be prescribed the particulars of all references as are received by it under sub-section (5) of Section 8- A inviting objections thereto from persons interested, to be filed within the period to be specified in that behalf.

(2) After receipt of the objections, if any, the Tribunal shall, after giving the persons concerned an opportunity of being heard and making such enquiry as it deems necessary, determine whether the estate is a trust or not and send a copy of the order to the Collector who has made the reference.

9. Appeal Against Collectors Order Under Sections 5, 6 Or 7 :-

1[(1) An appeal against any order of the Collector under sub-section (4) of Section 3-B, clauses (h), (i) and (k) of Section 5, sub-section (1) of Section 6 or 7, 2[sub-section (2) and (3) of Section 8] and sub-sections (3) and (4) of Section 8-A, if preferred within sixty days of such order shall lie to the Board of Revenue which shall dispose of the appeal according to the prescribed

procedure;

Provided that if such order is passed by an Officer, other than the Collector of the district, appeal if preferred within sixty days of such order shall lie to the said Collector, who shall dispose of the appeal according to the same procedure as is prescribed for disposal of such appeals by the Board of Revenue.

3[Explanation - The Collector of the District referred to in the proviso shall for the purpose of this sub-section includes (xxx) the Additional District Magistrate of the District.]4

(2) All claims referred to in sub-sections (1) and (2) of Section 8- A allowed by the Collector prior to the date of commencement of the Orissa Estate Abolition (Amendment) Act, 1956, (Orissa Act 15 of 1956) shall, as soon as may be after the said date, be notified in the prescribed manner by the Collector 5[* * *]. Any objection received within a period of three months from the date of the said notification, shall, after the parties are given an opportunity of being heard, be duly considered by the Collector who shall pass such order as he thinks fit and proper and the order so passed shall be final.

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956)

2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1986 (Orissa Act 13 of 1986)

3. Added by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957) s. 4(i)

4. Omitted by the Orissa Estates Abolition (Amendment) Act, 1973.

5. Omitted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 4 (ii)

10. Mines Worked By The Intermediary :-

(1) With effect from the date of vesting all such mines comprised in the estate as were in operation at the commencement of this Act and were being worked directly by the Intermediary shall, notwithstanding anything contained in this Act, be deemed to have been leased by the State Government to the Intermediary and such intermediary shall be entitled to retain possession of those mines as a lessee thereof.

(2) The terms and conditions of the said lease shall be such as may be agreed upon between the State Government and the intermediary or in default of agreement, as may be settled by a Mines Tribunal appointed under Section 13:

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.

11. Subsisting Leases Of Mines And Minerals :-

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

(2) The terms and conditions of the said lease 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, before the date of the commencement of this Act, done any prospecting or developing work, the State Government shall be entitled at any time before the expiry of one year from the said date to terminate the lease by giving three months notice in writing:

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 lease.

(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 out going Intermediary on the ground that the terms of the lease executed by such Intermediary in respect of the said mines and minerals have become incapable of fulfillment by the operation of this Act.

12. Buildings And Lands Appurtenant To Mines :-

Where by virtue of Section 10 or Section 11 any lease of mines and minerals comprised in an estate is deemed to be given by the State Government, all buildings and lands not included in such lease, whether comprised in that or any other estate, which vests in the State Government 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, and the lessee shall be entitled to retain possession of all such buildings and lands subject to the payment of such fair and equitable ground rent as may be agreed upon between the State Government and the lessee, or in default of agreement as may be fixed by a Mines Tribunal appointed under Section 13.

13. Mines Tribunal :-

(1) Any Mines Tribunal appointed for the purposes of Sections 10, 12 and 36 shall consist of a Chairman who shall be a District Judge and a member, who shall be a mining expert and subject to the approval of the Central Government they shall be appointed by the State Government.

(2) In setting the terms and conditions of a lease by the State Government under Section 10 the Mines Tribunal shall have power to determine the extent of the property deemed to have been leased by the State Government and in so doing shall have due regard to the reasonable requirements for the future development of the 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, the same shall be referred by the Chairman to a Judge of the High Court to be nominated by the Chief Justice of that Court in this behalf, and the decision of such Judge shall be binding on the Tribunal.

1[* * * * *]

1. Chapter II-A Repealed by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970) s. 3 which was inserted by the Orissa Estates Abolition (Amendment) Act, 1963 (Orissa Act 5 of 1963) s. 3.

CHAPTER 3 MANAGEMENT OF ESTATES VESTED IN THE STATE

14. Constitution Of Anchal Sasan :-

(1) There shall be constituted Local authorities to be called Anchal

Sasans for the purpose of management of all estates vested in the State Government under the provisions of this Act.

(2) The Anchal Sasans constituted under sub-section (1) shall, for the purpose of such management, have jurisdiction over such suitable administrative units as may be notified by the State Government from time to time and such units so notified shall be called Anchals for the purpose of this Act.

(3) An Anchal Sasan constituted under sub-section (1) shall consist of

(i) Anchal Sabha, and

(ii) Anchal Adhikari,

(4) The powers, duties and functions of the Anchal Sasan and the constitution of the Anchal Sabha shall be regulated by an Act of the State Legislature:

1[Provided that until provisions of the Orissa Anchal Sasan Act, 1955, (Orissa Act 4 of 1956) defining the powers, duties and functions of the Anchal Sasan, Anchal Sabha and Anchal Adhikari are enforced, the estates vested in the State Government shall be subject to the provisions of this Act, and subject to such directions as may by general or special order be issued by the State Government in this behalf, be managed according to the laws, rules and regulations for the time being in force for the management of the Government estates or raiyatwari areas or other areas under the direct management of Government by whatever name known, as the case may be.

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 5

14A. Section 14A :-

1[(5) x x x x]

1. Sub-section (5) of Section 14, Section 15, 16 and 17 repealed by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957).

15. Section 15 :-

1[x x x x x]

1. Sub-section (5) of Section 14, Section 15, 16 and 17 repealed by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957).

16. Section 16 :-

1[x x x x x]

1. Sub-section (5) of Section 14, Section 15, 16 and 17 repealed by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957).

17. Section 17 :-

1[x x x x x]

1. Sub-section (5) of Section 14, Section 15, 16 and 17 repealed by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957).

CHAPTER 4 PROVISIONS RELATING TO CERTAIN DEBTS OF INTERMEDIARY AND TO THE CLAIMS OF THE MAINTENANCE-HOLDER IN AN ESTATE

18. Time Within Which Secured Creditors And Maintenance-Holders May File Claims :-

(1) (a) Every creditor, whose debt is secured by the mortgage of, or is a charge on any estate, 1[or estates] or part thereof, vested in the State Government under Section 3, 2[or Section 3-A] may, within six months from the date of such vesting or from the date on which such creditor is dispossessed under the provisions of clause (h) of Section 5 or within three months from the date of appointment of the Claims Officer, whichever date is latter, 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 such creditor in respect of his claim.

(b) Every maintenance-holder in an estate, succession to which is governed by the law of primogeniture, who is in receipt of a monetary allowance in lieu of maintenance, which is a charge on the estate or part thereof vested in the State Government under Section 3, may within the period specified in clause (a) notify in the prescribed manner to the Claims Officer in writing his claim for maintenance and the amount of allowance which he is entitled to receive therefore.

Explanation I - For the purpose of this section, a usufructuary mortgage 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 shall be deemed to be a debt secured by mortgage.

Explanation II - Different Claims Officers may be appointed for different areas.

(2) The Claims Officer shall be -

(a) a District Judge, if the claim notified under sub-section (1) exceeds ten thousand rupees;

(b) a Subordinate Judge, if such claim does not exceed ten thousand rupees:

3[Provided that in a district where there is no Subordinate Judge, the Claims Officer may be a Munsif if such claim does not exceed four thousand rupees, and a District Judge if such claim exceeds four thousand rupees:

Provided further that any proceedings pending before a District Judge in pursuance of this sub-section prior to the date of commencement of the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956) shall in relation to a claim to which the foregoing proviso applies, stand transferred to the Claims Officer if any, appointed in accordance with the said proviso who shall proceed to hear such claim from the stage at which it stood transferred.]

4[(3) Where the claim of a creditor is in respect of more than one estate situate within the jurisdiction of different Claims Officers, the claim shall be notified by him to any one of such Claims Officers:

Provided that claims of a creditor in respect of more than one estate situate within the jurisdiction of different Claims Officer which are pending on the date of commencement of the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958) shall on application by the creditor stand transferred to any one of such Claims Officer at the option of the creditor. An application in this behalf shall be filed before the Claims Officer or Officers from whose jurisdiction the matter is intended to be transferred.]

5[(4) Every claim of the nature referred to in sub-section (1) which is not duly notified to the Claims Officer within the time and in the manner mentioned in the said sub-section shall be barred;

Provided that, when the Claims Officer is satisfied that the claimant was prevented by any sufficient cause from complying with the provisions of the said sub-section, he 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 the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 3(a).

2. Inserted by the Orissa Estates Abolition (Amendment) Act, 1955

(Orissa Act 15 of 1956) s. 9(i).

3. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 9 (ii).

4. Inserted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 3(i).

5. Renumbered by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act, 3 of 1958), s. 3(b).

19. Creditor Or Maintenance- Holder To Furnish Full Particulars And Documents :-

Every creditor or maintenance-holder submitting claim under Section 18 shall furnish along with his written statement of claim, full particulars thereof; and shall, within such time as the Claims Officer may appoint, produce all documents 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.

19A. Intimation Of The Claims By The Claims Officer :-

1[(1) As soon as a claim is notified to the Claims Officer under sub-section (1) of section 18, the Claims Officer shall intimate the details of the claim to the Compensation Officer appointed under Section 23 in respect of the estate 2(or estates) on which the claim is notified.

(2) Where the claim is 3[by a creditor in respect of more than one estate under clause (a) or] one for maintenance under clause (b) of the said sub-section the Compensation Officer on receipt of such information from the Claims Officer shall intimate to the Claims Officer the amount of net income computed by him under Section 27 in respect of the estate 4[or estates] relating to such claim:

Provided that in respect of the claims already filed under Section 18 prior to the date of commencement of the Orissa Estates Abolition (Second Amendment) Act, 1956 5[or (Second Amendment) Act, 1957] the Claims Officer shall intimate the details of such claims to the Compensation Officer within a period of two months from the said date.

1. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1956 (Orissa Act 28 of 1956), s. 3.

2. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 4(a).

3. Inserted by *ibid*, s. 4(b) (i)

4. Inserted by *ibid*, s. 4(b) (ii)
5. Inserted by *ibid*, s. 4(b) (iii)

20. Determination Of Amount Due To Creditor & Maintenance-Holder And The Order Or Priority As Between Two Or More Creditors :-

(1) The Claims Officer shall, in accordance with the rules prescribed, determine the principal amount legally and 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 subsection (1), the Claims Officer shall notwithstanding the provisions of any agreement or law to the contrary, proceed in the following manner:

(a) he shall ascertain the amount the principal originally advanced in each case, irrespective of the closing of accounts, execution of fresh bonds or decree or order of a Court;

(b) he shall ascertain the amount of the interest already paid or realized and shall set off towards the amount of the principal any amount paid or realized 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 realized 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, or a lease executed in lieu of an advance made of an estate or in the case of possession of such estate or part thereof by a widow in lieu of her dower debt, the net amount of rents and profits accruing from such estate shall be deemed to be the interest for the purpose of this section;

(e) in other cases, the amount of the principal ascertained to be due to the claimant shall carry interest at such 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) Where there are two or more such creditors, the Claims Officer shall also settle the order in which each creditor is entitled to receive the amount due to him. In doing so, he shall be guided by the relevant provisions of the Transfer of Property Act, 1882, or of any other law which may govern the transaction.

1[(4) Where a claim under clause (a) of sub-section (1) of Section 18 relates to two or more estates, the Claims Officer while determining the claim shall apportion the claim amount in respect of each estate in proportion to the net income thereof.]

2[(5)3 The Claims Officers shall determine the claim of each maintenance holder in an estate having regard to the proportion that the net monetary allowance that was being received by the maintenance-holder bears to the net income of the estate computed under Section 27.]

1. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 5(a)

2. Substituted by the Orissa Estates Abolition (Second Amendment) Act, 1956 (Orissa Act 28 of 1956), s. 4

3. Renumbered by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958). s. 5(b)

20A. Claims Officer To Communicate Award :-

1[2(1) After determining the claim of the creditor or a maintenance- holder under Section 20 the Claims Officer shall communicate his award to the Compensation Officer concerned.

3[(2) In the case of awards, made prior to commencement of the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), the Claims Officer shall revise such awards, as are referred to him by the Compensation Officer, and shall apportion the claim as provided in sub-section (4) of Section 20.

1. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1956 (Orissa Act 28 of 1956), s. 5

2 . Renumbered by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958) s. 6.

3. Inserted by *ibid*.

21. Appeal Against The Decision Of Claims Officer :-

1[An appeal shall lie against any decision of the Claims Officer under Section 20, within sixty days of such decision in the manner provided in section 22.]

1. Substituted by *ibid*, s. 7.

22. Appellate Authorities And Procedure :-

1[(1) An appeal under Section 21 shall lie to -

(a) the High Court, if the appeal preferred, involves a claim exceeding ten thousand rupees;

(b) the respective District Judges to be notified in this behalf, if such appeal involves a claim which does not exceed ten thousand rupees;

Provided that in case of claims heard by a District Judge under the proviso to sub-section (2) of Section 18, the appeal shall lie to the High Court.

(2) An appeal filed before a District Judge under the preceding sub-section shall be disposed of according to the prescribed procedure.

(3) Appeals pending before the Board prior to the commencement of the Orissa Estates Abolition (Second amendment) Act, 1957 (Orissa Act 3 of 1958) shall stand transferred to the appropriate appellate authorities specified in sub-section (1).

(4) The decision of the Claims Officer, subject to the result of the appeal, if any, shall be final.]

1. Substituted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 8.

CHAPTER 5 ASSESSMENT OF COMPENSATION

23. Appointment Of Compensation Officer :-

As soon as possible after the publication of notification under sub-section (1) of section 3, 1[or sub-section (1) or section 3-A] the State Government shall appoint one or more officers to be designated as compensation Officers, who shall prepare in the prescribed form and in the prescribed manner a Compensation Assessment-roll containing the gross asset and net income of each estate and the compensation to be paid in accordance with provisions of this Act in respect of such estate together with such other particulars as may be prescribed.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 11

24. Compensation To Be Determined For Estate As A Whole :-

The compensation shall be determined for the estate as whole in accordance with the provisions of this Act and not separately for

each of the shares therein.

Explanation I - No partition applied for under the Estate Partition Act, 1897 or any other law or custom for the time being in force, or no recognition by an intermediary in respect of the division of a tenure under any law or custom for the time being in force, subsequent to the 17th day of January, 1950 shall be taken into consideration for purpose of assessment and payment of compensation under this Act.

Explanation II - Tenures and under-tenures under an intermediary shall be treated as separate estates of the purpose of Chapters V and VI.

1[Explanation III - Minor Darmilla Inams referred to in section 8- C shall, for the purpose of assessment and payment of compensation, be treated as separate estates.]

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 4

25. Powers Of Compensation Officer To Disregard Certain Trusts :-

Notwithstanding anything contained in clause (2) of section 28, the Compensation Officer in preparing the Compensation Assessment roll shall, where a trust has been created on or after the 1st day of January, 1946 in respect of an estate and where compensation shall be assessed as perpetual annuity, obtain the previous sanction of the State Government:

Provided that it shall be competent for the State Government to refuse such sanction.

26. "Previous Agricultural Year" And "Gross Asset" Defined :-

For the purpose of this Chapter - "previous agricultural year" means the agricultural year immediately preceding that in which the date of vesting falls;

(1) "gross asset" when used with reference to an estate means the aggregate of the rents, including all cesses, which were payable in respect of the estate for the previous agricultural year-(a) by the immediately subordinate intermediary in case such immediately subordinate intermediary is an intermediary of a permanent or resumable tenure;

(b) by the raiyats or any other persons cultivating the land other than the land settled with the intermediary or intermediaries under

sub-section (1) of section 7 and includes-

(i) the aggregate of the rents determined in accordance with the provisions of sections 6 and 7 in respect of the lands in the possession of the intermediary or intermediaries referred to in the said sections.

In cases in which the rent is payable in kind it shall be valued in the prescribed manner;

(ii) rents of lands acquired by intermediary or intermediaries of an estate either in execution of decrees for arrears of rent or otherwise (such lands not being in Khas possession of such intermediary or intermediaries or settled with any raiyat) at the rate payable before such acquisition;

(iii) annual rent, determined in the prescribed manner of buildings used primarily as offices or kutcheries for the collection of rents, or rest houses for estate servants on duty, or golas used primarily for storing rent in kind;

(iv) gross income of the previous agricultural year from fisheries, trees, jalkars, ferries, hats and bazaars;

(v) gross income from forests calculated on the basis of the appraisement made of annual yield of the forests on the date of vesting by a Forest Officer subject to the approval of the 1[Chief Conservator of Forests], such Forest Officer being not below the rank of a Divisional Forest Officer to be appointed in this behalf by the State Government.

2[* * * *] and

(vi) gross income of the previous agricultural year from any other interest appertaining to an estate vesting in the State Government and not expressly mentioned in sub-clauses (i) to (v).

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 5

2. Omitted by the Orissa Estates Abolition (Amendment) Act, 1963 (Orissa Act 5 of 1963), s. 4

27. Computation Of Net Income :-

(1) For the purposes of preparing compensation-Assessment-roll the net income from an estate shall be computed by deducting from the gross assets of such estate 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 Intermediary, as the case may be, in respect of the estate for previous agricultural year:

Provided that where rent of a holding comprised in such estate has been commuted into cash rent and there has been no revaluation of the cess payable in respect of that estate, the cess payable under this clause shall be determined on the basis of the commuted rent;

(b) any sum which was payable in respect of such estate as agricultural income-tax in respect of any agricultural income derived from such estate for the previous agricultural years:

(c) any sum which was payable by the Intermediary as income-tax in respect of any income other than royalties from mines derived from such estate for the previous agricultural years:

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 intermediary had no income other than the income derived from such estate;

(d) any sum which was payable as chaukidari-tax or municipal-tax in respect of any building used primarily as office or kutchery for the management of such estate or as rest houses for estate servants on duty or golas used primarily for storing rent in kind;

(e) cost of management of such estate at the following rates, namely:-

Amount of gross asset Rate

(i) Where the gross asset does not exceed Rs. 500. Nil

(ii) Where the gross asset exceeds Rs. 500 but does not exceed 5 per centum of such gross asset Rs. 2,000.

(iii) Where the gross asset exceeds Rs. 2,000 but does not exceed 7 ½ per centum of such gross asset Rs. 5,000.

(iv) Where the gross asset exceeds Rs. 5,000 but does not exceed 10 per centum of such gross asset Rs. 10,000

(v) Where the gross asset exceeds Rs. 10,000 but does not exceed 12 ½ per centum of such gross asset Rs. 15,000.

(vi) Where the gross asset exceeds Rs. 15,000 Not less than 15 and not more than 20 per centum of such gross

1[Provided that the deductions on account of the cost of the management referred to clause (e) shall not in any case have the effect of reducing the net asset of the Intermediary specified in any entry in sub-clauses (ii) to (vi) of the said clause to an amount below the net asset of the Intermediary specified in the entry mentioned in sub-clauses (i) to (v) respectively, of the said clause.

Explanation - For the purposes of this section the term "net asset" means the gross asset minus the deductions on account of the cost of management;

Illustration

An Intermediary has a gross asset of Rs. 2,000. After deducting the cost of management at the rate of 5 per centum his net asset comes to Rs. 1,900.

Another Intermediary has a gross asset of Rs. 2,010. After deducting the cost of management at the rate of 7 ½ per centum his net asset comes to Rs. 1,860 but under the terms of the proviso, his net asset shall not be less than Rs. 1,900];

(f) 2[* * * * *]

(g) any other tax or legal imposition payable in respect of such estate not expressly mentioned in clauses (a) to (f) or the value, to be commuted in the prescribed manner, of any services or obligations of any other form to be rendered or discharged as condition precedent to his enjoyment of such estate;

(h) 3[an amount which in the opinion of the Compensation Officer is equivalent to the approximate loss caused to the annual gross income of the estate] on account of damage, destruction or deterioration in value of forest or other properties brought about after the 1st day of January, 1946 by any act of omission or commission of the Intermediary.

(2) That State Government may make rules providing for the manner of calculation of sums under the different clauses of sub-section (1), when the estates vested in the State Government under section 3 4[or section 3-A] is a share in an estate 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. Added by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. 7(a).

2. Omitted by ibid S. 7(b)

3. Substituted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 4

4. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 12.

28. Rates Of Compensation :-

After the net income has been computed under section 27 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 Government of the interest in respect of each estate as

follows;-

(1) in the case of permanent or resumable estate the compensation payable shall be determined in the following manner, namely:-

Amount of net income Rate of compensation payable

(i) On the first five hundred rupees of the Fifteen times of such net income.

net income.

(ii) On the next thirty-five hundred Thirteen times of such net income.

rupees of the net income.

(iii) On the next three thousand rupees Ten times of such net income.

of the net income.

(iv) On the next three thousand rupees Seven times of such net income.

of the net income.

(v) On the next fifteen thousand rupees Five times of such net income.

of the net income.

(vi) On the next fifteen thousand rupees Four times of such net income.

of the net income.

(vii) On the balance of the net income Three times of such net income.

To the amount thus determined shall be added the amount of compensation, if any, payable in respect of mines and minerals as determined under section 30 and such amount as may be determined in the prescribed manner for any improvement that the Intermediary has made in respect of waste lands:

Provided that when such land is settled with intermediary on a fair and equitable rent no compensation shall be paid for such land.

Explanation I- the expression "resumable estate" in this clause means an estate 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.

Explanation-II Improvement for the purpose of this clause shall mean any investment made for the better utilization of land.

(2) in the case where in the opinion of the Compensation Officer

the net income or any portion of the net income in respect of any estate held under trust or other legal obligation has been dedicated exclusively to 1[*] charitable or religious purposes 2[of a public nature] 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 3[and the perpetual annuity so assessed shall be subject to revision as hereinafter provided].

4[Provided that in regard to estates relating to Hindu Religious Trusts or institutions, the Compensation Officer shall, in cases of doubt, refer the matter to the Endowment commissioner appointed under the Orissa Hindu Religious Endowments Act, 1951 for giving his opinion after a summery enquiry as may be prescribed and on receipt of such opinion shall decide the matter in accordance therewith unless the parties concerned contest the opinion so expressed in which case the Compensation officer shall after holding an enquiry in the prescribed manner, pass such orders as he deems fit]:

1. Provided 5(further) that the State Government may, by a special order in each case, declare such trusts or other legal obligations to be entitled to the benefit of this clause:

2. 6[Provided also that where the perpetual annuity is not more than five rupees it shall not be paid on annual basis, but a sum equal to five times the said annuity shall be paid at the interval of every five years from the date of vesting.]

3. 7[(i)-The salary, remuneration or any allowance payable to a Mutawalli in the case of a wakf or to a trustee in any other case including shebait of a Hindu religious trust not exceeding fifteen per centum of the income dedicated exclusively to charitable or religious purposes, shall not be deemed to be a reservation of pecuniary benefit to any individual within the meaning of this clauses].

8[(ii)- The expression "Endowment Commissioner" shall include Assistant endowment Commissioner appointed under the Orissa Hindu Religious Endowments Act, 1951".]

9[(2-a)- Wherever the price of paddy in comparison with the price prevailing at the time of assessment or, as the case may be, last revision of the perpetual annuity increases or decreases by at least twenty-five per centum, the perpetual annuity shall be revised proportionate to the increase or decrease, as the case may be, and

thereupon the provisions of sections 31 to 35 shall, mutatis mutandis, apply to the proceedings relating to such revision.

Explanation- For the purposes of this clause "price of paddy" shall have reference to the price of paddy in respect of a year published by the State Government under any tenancy law for the time being in force.

10[2-b)-(i) Where any property is settled under section 7-A with any person referred to in that section, the perpetual annuity payable to such person shall be revised.

(ii) For the purpose of such revision, the gross income in respect of such property taken into account in assessing the perpetual annuity shall be deducted from the gross assets of such estate and the provisions of sections 31 to 35 shall mutatis mutandis apply].

(3) In the case where the interest of an Intermediary is subject to a mortgage or charge on the estate or portion thereof, the compensation shall be payable to the creditor holding such mortgage or charge in such proportion as hereinafter provided in full satisfaction thereof and the balance shall be payable to the Intermediary.

(i) fifty per centum of the compensation when the amount of such compensation is fifty thousand rupees or less;

(ii) thirty per centum when the amount of such compensation is above fifty thousand rupees and is less than one lakh of rupees; and

(iii) twenty per centum when the amount of such compensation is one lakh of rupees or above, and where there are two or more such creditors the compensation shall be payable to the body of creditors jointly in the aforesaid proportion and in the order determined under the said Chapter.

11[(4) In the case of an estate, succession to which is governed by the law of primogeniture, where any person is in receipt of a monetary allowance in lieu of maintenance which is a charge on the estate, the amount of compensation payable to such person on account of such maintenance allowance, shall bear the same ratio, to the compensation payable to the Intermediary under section 37, as his claim determined under 12[sub-section (5)] of section 20 bears to the net income of the Intermediary computed under section 27 and shall be deducted from the compensation payable to such Intermediary.]

1. Omitted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 9

2. Inserted by *ibid.*, s. 9

3. Added by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970), s. 4(a)
4. Substituted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 5, which was inserted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957)
5. Inserted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 5
6. Inserted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961)
7. Re-numbered by the Orissa Estates Abolition (Amendment) Act, 1978 (Orissa Act 25 of 1978)
8. Inserted by the Orissa Estates Abolition (Amendment) Act, 1978 (Orissa Act 25 of 1978)
9. Inserted by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970)
10. Inserted by the Orissa Estates Abolition (Amendment) Act, 1974.
11. Substituted by the Orissa Estates Abolition (Second Amendment) Act, 1956 (Orissa Act 28 of 1956), s. 6.
12. Substituted by the Orissa Estates Abolition (Amendment) Act, 1960 [Orissa Act 2 of 1961 s. 6(d)].

29. Provision Of Section 28 Not To Affect Any Agreement :-

Nothing in the foregoing section shall operate to modify the terms of any agreement between the Intermediary and the State Government under section 4.

30. 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 Intermediary in receipt of royalties on account of mines and minerals or directly working mines comprised in estate-

- (a) his gross income and net 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 mineral; and

(d) such other particulars as may be prescribed.

(2) For the purposes of clause (a) of sub-section (1) the gross income of 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 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 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 intermediary by way of salami or premium shall not be taken into account in calculating the gross income from royalties.

(3) For the purposes of clause (b) of sub-section (1) the gross income of 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 sub-section (2). 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) (a) After the net income from royalties has been computed under sub-sections (2) and (3), the Compensation Officer shall calculate the compensation in accordance with the table, contained in sub-section (1) of section 28 as if the net income referred to in the said table had been the aggregate of the net income calculated in respect of the estate under section 27 and the net income calculated under the sub-sections aforesaid;

(b) where the amount of compensation calculated under the foregoing clause is agreed to, it shall be determined in accordance with the said clause;

(c) (i) where no such agreement is reached within the prescribed period the Compensation Officer shall refer the question of determination of the amount of compensation to a Tribunal to be appointed by the State Government in this behalf;

(ii) the Tribunal shall consist of a District Judge who shall be assisted by a mining expert to be nominated by the State Government;

(d) (i) as the commencement of the proceedings before the Tribunal the Intermediary shall state what in his opinion is the fair amount of compensation;

(ii) the Tribunal in giving its award shall have regard to the provisions of sub-sections (2) and (3) and to the opinion of the mining expert, with regard to the extent of the mining operations carried on and of the minerals obtained and determine the amount of compensation to be payable to the Intermediary in accordance with the principle laid down in clause (a);

(iii) every award made by the Tribunal under this sub-section shall be communicated to the Compensation Officer who made the reference and thereupon he shall proceed to complete the Compensation Assessment-roll accordingly.]

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 13.

31. Preliminary Publication Of Compensation Assessment-Roll :-

(1) After the amount of compensations to be paid in respect of an estate which has vested in the State under the provisions of this Act, has been determined in accordance with the provisions of sections 28 and 30 the Compensation Officer shall ascertain by such enquiry as he deems fit the shares possessed by each share holder in the estate and apportion the compensation among the co-sharers in proportion to their shares. He shall then cause a draft of the Assessment-roll to be published in the prescribed manner and for the prescribed period which shall not be less than thirty days and shall send by registered post, with acknowledgement due I[or otherwise to his satisfaction] a Copy of such draft to the intermediary whose name appears in such draft Compensation Assessment- roll or in case of his death, to his legal representative. The Compensation Officer shall receive and consider any objection which may be made to any entry in such draft Compensation Assessment- roll or to any omission therefrom during the period of publication and shall dispose of such objections according to such rules as the State Government may make in this behalf.

1[(a) Nothing in sub-section (1) shall be deemed to require the Compensation Officer to make the apportionment where it is not reasonably practicable for him to do so due to the default on the part of all or any of the share-holders to appear before him].

(2) Separate draft Compensation Assessment-roll shall be prepared

and published under subsection (1) for different estates.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 6

32. Appeal :-

1[(1) An appeal, if presented within one month from the date of the order appealed against; shall lie from every order passed by a Compensation Officer under sub-section (1) of section 31 to the Collector of the district.

(2) All appeals pending before the High Court on the date of commencement of the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962) shall stand transferred to the Collector of the district having Jurisdiction.

1. Substituted by ibid s. 7 which were substituted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 11.

32A. Second Appeal :-

Any person aggrieved by any order passed by the Collector under Section 32 may, within one month from the date of the order, prefer an appeal before the Board of Revenue.

32B. Revision :-

Any person aggrieved by an appellate order passed under section 32-A may within one month from the date of the order, file an application before the High Court for revision of such order on the ground that the decision is not in conformity with the law.]

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

When all such 1[objections, appeals and revisions] 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 2[on such objections, appeals and revision as aforesaid] 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 an Intermediary and the apportionment of the compensation among the persons claiming

interests therein:

Provided that nothing contained in this Act shall affect the right of any person to establish his claim in respect of any estate or part thereof by due process of law in the Court having Jurisdiction.

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 8(a)

2. Substituted by *ibid*, s. 8(b)

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

When a Compensation Assessment-roll has been finally published under section 33 the Compensation Officer shall, within such time as the State Government may by general or special order require, endorse a certificate stating the fact of such final publication and the date thereof and shall date and subscribed the same with his name and official designation and such certificates shall be conclusive proof of such publication and of the date thereof.

35. Correction By Compensation Officer Of Bona Fide Mistakes :-

(1) A Compensation Officer may, on application or of his own motion, at any time before payment of compensation in accordance with a compensation Assessment roll under section 37, correct any entry in the Compensation Assessment-roll as finally published in respect of any estate to which 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 to or transfer of the interest of 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 32:

1[Provided further that after the disposal of such appeal, if any, on an application by an Intermediary within a period of one year and a half from the date of issue of the payment order in consequence of the publication of the Assessment-roll under section 33 or of his own motion during the said period and after the persons interested are given an opportunity to be heard, it shall be lawful for the Compensation Officer to review the Compensation Assessment-roll for correction only of further bona fide mistakes, if any].

2[Provided also that in cases where the entire amount of

compensation had been paid to the Intermediary and on a review as above referred to, it is found that an amount in excess of what is due had been paid to the said Intermediary it shall be lawful for the State Government to recover the said excess amount from him as an arrear of land revenue without prejudice to any other mode of recovery].

3[Provided also that the Compensation Officer may, in the case of estates in respect of which the compensation amount has already been paid prior to the commencement of the Orissa Estate abolition (Second Amendment) Act, 1957 make any correction in the Compensation Assessment -roll consequent on the filing of claims under the second and third provisos to sub-sections (1) and (2) of section 8-A.]

(2) No correction of any entry in the Compensation Assessment-roll as finally published in respect of any estate to which such Compensation Assessment-roll relates shall be made under subsection (1) unless the Compensation Officer has first published a draft to such correction and sent by registered post, with acknowledgement due 4[or otherwise to his satisfaction] a copy of such draft to the 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 5[section 31 to 34].

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 14

2. Inserted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957) s. 9

3. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 12 (12)

4. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1957), s. 12 (2)

5. Substituted by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. (9)

36. 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 11 any lease of mines or minerals is terminated by the State Government, the lessee shall be entitled to such compensation from the State Government for premature termination of the lease as may be agreed upon between the State

Government and holder of the lease or in default of agreement as may be determined by a Tribunal appointed under section 13.

(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.

CHAPTER 6 PAYMENT OF COMPENSATION

37. Manner Of Payment Of Compensation :-

1[After final publication of the Compensation Assessment -roll under section 33] the Compensation Officer shall proceed to make payment, in the manner provided in this section, to the Intermediary and other person or persons who are shown in such Compensation Assessment-roll 2[* * *] to be entitled to compensation, of the compensation payable them in terms of the said roll after deducting from the amount of any compensation so payable any amount which has been ordered by Collector under clause 3[(b)], 4[(d) or (k)] of section 5 to be so deducted.

5[Provided that where compensation is payable by way of the perpetual annuity under section 4 or clause (2) of section 28 the deduction under anyone or more of the aforesaid clauses of section 5 shall not together exceed twenty-five per centum of such annuity].

6[Provided further that in case where the amount due under the said clauses of section 5 cannot be fully recovered within a period of thirty years from the date of vesting by making deduction at the maximum rate as provided in the preceding proviso, the Compensation Officer shall refer the case to the Board of Revenue, which may fix a higher rate of deduction not exceeding fifty percentum of the annuity and in so affixing the Board shall, where the annuity relates to any estate held under a trust or other legal obligation referred to in clause (2) of section 28, have due regard to the obligatory expenditure to be met by such trust or under such legal obligation].

(2) The amount of compensation so payable in terms of a Compensation Assessment -roll as finally published shall be paid as hereinafter provided to the person or persons entitled thereto according to the said roll and in case of death of person or persons so entitled before the compensation is received by him or them to his or their legal representatives.

(3) The amount of compensation to which an Intermediary shall be

entitled under sub-section (1) shall carry interest at two and a half per centum per annum and the compensation together with the interest shall be payable on and from the date of vesting in thirty annual equated instalments:

Provided that it shall be competent for the State Government to make full payment of the compensation outstanding at any period prior to this completion of the period of thirty years specified above.

6[* * * * *]

7[(3-A) (a) As soon as may be after the final publication of the Compensation Assessment-roll the Compensation Officer shall in respect of every person entitled to payment according to the said roll issue notice on the prescribed form and manner calling upon such person to take steps for receiving payment.

(b) Notwithstanding the issue of such notice, nothing in clause (a) shall be deemed to authorize payment contrary to the directions contained in any judgment, decree or order of a Court or other authority.

(3-B) The amount of compensation covered by a notice under sub-section (3-A) which has been withheld from payment in pursuance of any judgment, decree or order of a Court or other authority, or which for any reason whatsoever remains unpaid, shall, as soon as may be after the date of expiry of the prescribed period commencing next after the due date or dates of payment specified in such notice, be deposited as revenue deposit.

(3-C) Notwithstanding anything to the contrary in sub-section (3) the amount to be deposited under sub-section (3-B) shall not carry any interest from the date of expiry of the period prescribed under the said sub-section]

8[* * *]

(5) If the estate in respect of which the compensation is payable is held by a limited owner or the holder of a life interest⁹[* * *] the Compensation Officer shall keep the amount of compensation in deposit with the Collector of 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 interest⁹[*] during his life-time. Such amount shall remain deposited with Collector until the compensation money or portion thereof after making payments, 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 9[* *
*] to apply to the District Judge for the payment of a part of the compensation money to defray any expenses which may be necessary to meet any legal necessity.

Provided further that an Intermediary may, by a deed reduced to writing agree to receive compensation by way of reduction of rent to be fixed on the basis of adjustment of the payment of compensation payable to him on such terms and conditions as may be agreed to within the specified period of thirty years, on such land comprising the estate or part of the estate, as may be settled, with him under the provisions of section 7 of this Act.

10[Explanation- The expression "limited owner" shall not include the holder of an estate which is governed by the provision of the Madras Impartible Estate Act of 1904 (Madras Act II of 1904) or of any other estate which is impartible under any other law or custom or usage having the force of law]

11[(6) The amount of compensation to which a creditor or a maintenance holder shall be entitled under clause (3) or (4) of section 28 shall carry interest at two and a half per centum per annum on and from the date his claim is determined by the Claims Officer under section 20 and shall be paid on and from the date of vesting of the estate in thirty annual equated instalments:

Provided that no interest shall be paid on that part of the claim which represents interest referred to in clause (f) of sub-section (2) of section 20:

Provided further that it shall be competent for the State Government to make full payment of the compensation payable to creditors or maintenance holders outstanding at any period prior to the completion of the period of thirty years specified above.]

1. Inserted by by the Orissa Estates Abolition (Amendment) Act, 1962 (Orissa Act 16 of 1962), s. 10(a)

2. Omitted by *ibid*, s. 10(b)

3. Inserted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 7(a)

4. Substituted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 15(i)

5. Inserted by the Orissa Estates Abolition (Amendment) Act, 1960 (Orissa Act 2 of 1961), s. 7(b)

6. Inserted by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970) s. 5

6. Omitted by the Orissa Estates Abolition (Amendment) Act, 1964 (Orissa Act 18 of 1964), s. 2 which was inserted by the Orissa

Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 10

7. Inserted by the Orissa Estates Abolition (Amendment) Act, 1964 (Orissa Act 18 of 1964), s. 2

8. Omitted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 3 of 1958), s. 13(a)

9. Omitted by *ibid*, s. 13(b)

10. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 15 (ii)

11. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1956 (Orissa Act 28 of 1956), s. 7

CHAPTER 7 MISCELLANEOUS

38. Interim Payment Of Compensation :-

(1) The compensation for the acquisition of estate under this Act shall be due as from the date of vesting and shall carry interest at the rate of two and a half per centum per annum from the date of vesting to the date of payment.

(2) Where under the provisions of sub-section (3) of section 37 the first annual payment is not made within the period of one year from the date of vesting, the 1[Collector] shall, Subject to such restrictions and conditions as to security, repayment or otherwise as may be prescribed 2[make] payment to each such Intermediary of interim compensation 3[in annual instalments each equal to one-thirtieth of the estimated amount of compensation]:

4[Provided that where in the opinion of the Collector the default in submission of records and documents, as are required of an Intermediary under the provisions of this Act, has caused delay in the determination of the compensation in respect of such estate the Collector in his discretion may subject to the control of the Board of Revenue refuse, suspend or stop payment of such interim compensation to such Intermediary.]

5[(3) Where the first payment of perpetual annuity payable under the provisions of clause (2) of section 28 is not made within a period of one year from the date of vesting the Collector shall, subject to such restrictions and conditions as to security, repayment or otherwise, as may be prescribed, make payment to the trustee Intermediary of an interim annuity equivalent to seventy-five per centum of the approximate amount of the perpetual annuity aforesaid to be calculated in the prescribed manner.]

6[(4) The payment of such instalments shall commence at the end of one year from the date of vesting and shall continue till the compensation payable under the Act is determined and paid in accordance with the provisions of sub-section (3) of section 37.]

7[(5) The interim compensation so paid shall be deemed to be a part of the compensation payable under this Act and shall be deducted from and adjusted against it.]

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 16(i) (a)(i)

2. Substituted by *ibid*, s. 16(i) a(ii)

3. Substituted by *ibid*, s. 16(i) a(iii)

4. Added by *ibid*, s. 16(i) (b)

5. Substituted by the Orissa Estates Abolition (Amendment) Act, 1974 (Presidents Act No. 3 of 1974), s. 10, read with Orissa Act 13 of 1975, which was inserted by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), s. 11(i)

6. Added by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 16 (2)

7. Renumbered by the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1967), s. 11 (ii)

38A. Review :-

1[Any decision made or order passed under this Act, whether before or after the commencement of the Orissa Estates Abolition (Amendment) Act, 1973 (other than a decision or order against which an appeal or revision has been preferred under this Act) may, within one year from the date of the decision or order as the case may be, and after giving all persons interested an opportunity of being heard, be reviewed by the officer who made the decision or passed the order, or his successor in office on the ground that there has been a clerical or arithmetical mistake in the course of any proceeding under this Act.

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1973 (Presidents Act No. 21 of 1973) s. 4 read with Orissa Act 13 of 1975.

38B. Revision :-

(1) The 1[Board of Revenue] may, on its own motion or on a report from the Collector, call for and examine the record of any proceeding in which any authority sub-ordinate to the 1[Board of Revenue] has made any decision or passed an order under this Act

(not being a decision against which an appeal has been preferred to the High Court or the District Judge under section 22) for the purpose of satisfying itself as to the regularity of such proceeding or the correctness, legality or propriety of such decision or order and if in any case it appears to the⁵ [Board of Revenue] that any such decision or order ought to be modified, annulled, reversed or remitted, it may pass orders accordingly.

2[(2) The Board of Revenue shall not, -

3[(i) * * * *]

(ii) revise any decision or order under this section without giving the parties concerned an opportunity of being heard in the matter.]

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1976 (Orissa Act 16 of 1976), s. 2(a)

2. Substituted by the Orissa Estates Abolition (Amendment) Act, 1976 (Orissa Act 16 of 1976), s. 2(b)

3. Deleted by the Orissa Estates Abolition (Amendment) Act, 1979 (Orissa Act 22 of 1979)

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

No suit shall be brought in any Civil Court in respect of any order passed under Chapters II to VI or concerning any matter which is or has already been the subject of any application made or proceedings taken under the said Chapters.

40. Delegation :-

The State Government may, by notification, direct that any power which is conferred on them 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 not below the rank of a member of the Board of Revenue subordinate to the State Government.

41. Protection Of Action Taken Under This Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) 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 likely to be suffered by virtue of any provisions of this act or by anything in good faith done or intended to be done in pursuance of

this Act or any rules made thereunder.

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

(1) The Collector for the purposes of inquiries under 1[sections 5,6,7, 7- A and 8-A] a Claims Officer for the purpose of inquiries under section 20, a Compensation Officer for the purpose of inquiries under Chapters V and VI and Tribunal for the purpose of 2[sections 8-E, 13, 30 and 36] 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.

(2) Every such inquiry conducted by the Collector or a Claims Officer or a Compensation Officer or a Tribunal shall be deemed to be a "judicial Proceeding" within the meanings of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code 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.

1. Substituted by the Orissa Estates Abolition (Amendment) Act, 1974 (Presidents Act No. 3 of 1974) s. 11(i), read with Orissa Act 13 of 1975 for "sections 5, 6, 7 and 8-A".

2. Substituted by *ibid*, s. 11 (ii), for "sections 13, 30 and 36".

43. Power Of Collector, Claims Officer And Compensation Officer To Require Production Of Documents, Etc :-

The Collector, the Claims Officer or the Compensation Officer may, by written order, require any person to produce such documents, papers and registers or to furnish such information as the Collector, Claims Officer or the Compensation Officer may deem necessary for the proper discharge of his powers and duties under the different provisions of this Act.

44. Penalties :-

If any person willfully fails or neglects to comply with any lawful order passed under this Act or contravenes any such order 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 State Government.

45. Certain Educational Or Charitable Institutions To Be Maintained By Government :-

Every educational or other charitable institution which was being maintained during three continuous years before the date of vesting my, if the Intermediary is agreeable, be maintained by Government if it is considered one for public benefit.

46. Vesting Of Estates Under Management Of Government :-

When the interest of any Intermediary in an estate which is under the management of the State government under the Orissa Court of Wards Act, 1947 (Orissa Act 26 of 1947), or under any law for the time being in force relating to the management of private estates by the Government, is transferred to the State under the provisions of this Act, then notwithstanding anything contained in the aforesaid Acts, the estate shall vest in the State and the provisions of the said Acts shall cease to apply to the said estate and all the provisions of this Act shall apply.

47. 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 or of the forgoing 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 time within which applications and appeals may be presented under this Act, in cases for which no specific provision in that behalf has been made herein;

- (d) the application of provisions of the Code of Civil Procedure, 1908 (Act V of 1908) and the Indian Limitation act, 1908 (Act IV of 1908) to applications appeals and proceedings under this Act;
 - (e) the mode of preparation 1[and publication] of an agreement under section 4;
 - (f) the manner of payment of arrear due under clause (c) of section 5;
 - (g) the procedure to be followed in determining fair and equitable rent in respect of certain lands deemed to be settled with an Intermediary under section 6 or 7 and the manner of enquiry into the matter referred to in sub-section (2) of section 7;
 - (h) the manner, terms and conditions for settlement of lands under sub-section (3) of section 8;
 - (i) the procedure to be followed in disposing of appeal under section 9;
 - (j) the method of management of estates by an Anchal Sasan under Chapter III, management by the Anchal Adhikari in the absence of the Anchal Sabha and application of the Anchal fund by the Anchal Adhikari;
 - (k) the manner of notification of claims by a creditor or a maintenance-holder to a Claims Officer under sub-section (1) of section 18;
 - (l) the rate of interest to be admissible on the amount of the principal ascertained under clause (e) of sub-section (2) of section 20;
 - (m) the procedure to be followed in the disposal of appeals under sub-section (2) of section 22;
 - (n) the mode of preparation of the Compensation Assessment- roll under section 23;
 - (o) the procedure to be followed in ascertaining the gross assets of an Intermediary under any of the heads mentioned in sub-clauses (i),(ii), (iii), (iv), (v), and (vi) of clause (2) (b) of section 26 and the manner in which the cash value or rent in kind to be determined for the purposes of clause (2) (b) (i) of the said section;
- 2[* * * *]
- (q) the manner in which the amount of compensation for improvement of waste lands under section 28 be determined;
 - (r) the particulars to be prescribed under clause (d) of sub-section (1) and the rates of the cost of collection to be prescribed under sub-section (2) of section 30 and the period within which an agreement should be reached between the State Government and

Intermediary under clause (b) of sub-section (4) of the said section;

(s) the manner and period of publication of a draft Compensation Assessment-roll under subsection (1) of section 31 and the disposal of objections under that sub-section;

(t) the manner in which appeals under section 32 shall be considered and disposed of;

(u) the manner of final publication of the Compensation Assessment-roll under section 33;

(v) The procedure to be followed by the Tribunal under sub-section (3) of section 13, subsection (4) of section 30,3(or) section 36 4[* * *];

(w) the manner of payment of compensation under sub-sections (2) and (3) of section 37;

(x) the restrictions and conditions subject to which interim compensation shall be paid under section 38;

(y) the fees to be paid in respect of applications and appeals under this Act;

(z) any other matter by this Act required, or expressly or impliedly authorised to be prescribed.

5[(3) All rules made under this section shall be laid as soon as possible after they are made before the Orissa Legislative Assembly for a total period of fifteen days which may be comprised in one session or in two or more sessions, and shall be subject to such modifications as the Assembly may make during the said period.]

1. Inserted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. 8(a)

2. Omitted by the Orissa Estates Abolition (Amendment) Act, 1970 (Orissa Act 33 of 1970), s. 6

3. Inserted by the Orissa Estates Abolition (Second Amendment) Act, 1957 (Orissa Act 8 of 1958), s. 14(a)

4. Omitted by *ibid*, s. 14(b)

5. Inserted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act 18 of 1952), s. 8(b)

48. Repeal :-

With effect from the date of publication of the notification 1[in the Gazette] under section 3 2[section 3-A] 3[or the date of execution of the agreement under section 4 as the case may be] in respect of an estate -

(a) the Bengal Permanent Settlement Regulation, 1793, the Madras

Permanent Settlement Regulation, 1802, the Madras Impartible Estates Act, 1904 and the Madras Estates Land Act, 1908, shall be deemed to have been repealed in their application to that estate if it has been governed by any of those Acts or Regulations immediately before that date.

(b) the Central Provinces Land Revenue Act, 1881, the Central Provinces Tenancy Act, 1898, the Central Provinces Land Revenue Act, 1917, the Central Provinces Tenancy Act, 1920 and any other law or laws for the time being in force shall be deemed to be repealed in so far as they are repugnant to the provisions of this Act.

1. Inserted by *ibid*, s. 9(i)

2. Inserted by the Orissa Estates Abolition (Amendment) Act, 1956 (Orissa Act 15 of 1956), s. 17

3. Inserted by the Orissa Estates Abolition (Amendment) Act, 1952 (Orissa Act XVIII of 1952), s. 9 (ii)

49. Saving In Respect Of Certain Right And Pending Proceedings :-

1[(1) Nothing contained in this Act shall in any way affect-

(i) any proceedings pending on the date of vesting with respect to the survey and settlement operations under any of the tenancy laws and any other proceedings pending before any Court or Tribunal on the aforesaid date under any of the said laws; and all such proceedings shall continue as if this Act had not come into force;

(ii) any cause of action arising under any of the tenancy laws prior to the date of vesting and any right of appeal, review or revision arising out of any proceedings with respect to such causes of action; and

(iii) the right of any Intermediary to recover any arrears of rent, cesses or other dues which accrued before the date of vesting, and the same shall, notwithstanding anything contained in this Act, be recoverable as heretofore by the Intermediary entitled thereto:

Provided that no decree for arrears of rent or order for ejectment in default of arrears of rent shall be executed by ejectment of the judgment -debtor from his holding.

(2) Where an Intermediary assigns his arrears of rent, cesses, royalties and other dues, which accrued due to him before the date of vesting, to the State Government on such terms and conditions as may be agreed upon between them the State Government shall

have the power to collect such arrears and dues as arrears of land revenue.

1. Added by *ibid*, s. 10

50. Power Remove To Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may as occasion may, require to do anything which appears to them necessary for purpose of removing the difficulty.