
AGRARIAN REFORMS ACT, 1976

(Act XVII of 1976)

THE JAMMU AND KASHMIR AGRARIAN REFORMS

ACT, 1976

Act No. XVII of 1976

CONTENTS

Preamble

Section

1. Short title, extent and commencement.

CHAPTER I

PRELIMINARY.

2. Definitions.

3. Exceptions.

3-A.

CHAPTER II

RESTRICTION ON RIGHTS IN LAND.

4. Vesting in the State of rights in land not held in personal cultivation.

4-A. Cancellation of mutation.

5. Vesting of personally cultivated land in excess of ceiling area in the State.

6. Vesting of dwelling house and of the site thereunder and land appurtenant thereto in the State in certain cases.

Section

7. Resumption for *bona fide* personal cultivation by ex-landlord.

8. Vesting of ownership rights in land in prospective owner.

9. Payment of rent by the tiller.

10. Mortgages of land.

11. Payment in lieu of extinguishment of rights in land.

12. Private agreement.

13. Restriction on utilization of land.

14. Optimum retainable area of land.

15. Disposal of surplus land.

16. Liability during interim period.

17. Prohibition on transfer of land.

Section	Section
CHAPTER III	28-A. Prohibition on transfer of certain lands.
JURISDICTION AND PROCEDURE.	29. Indemnity.
18. Appointment, superintendence and control of Revenue Officers.	30. Wrong or excess payment recoverable as arrears of land revenue.
19. Powers of Revenue Officers.	31. Omitted.
20. Special powers of officers.	32. Act to over-ride other laws.
21. Appeals and revisions.	33. Power to issue instructions.
22. Limitation for appeals.	34. Recoveries.
23. Inquiries and proceedings to be judicial proceedings.	35. Transfer to defeat provisions of this law.
24. Persons by whom appearances and applications may be made before a Revenue Officer.	36. Declaration of restrictions imposed to be reasonable.
25. Bar of jurisdiction of Civil Court.	CHAPTER V
CHAPTER IV	PENALTIES.
SUPPLEMENTAL PROVISIONS.	37. Penalty for failure to furnish or for furnishing false return.
26. Encroachment on State land and land reserved for grazing purposes.	38. Penalty for contravention of any lawful order.
27. Implementation of the provisions of the Act.	39. Penalty for damaging land.
28. Rights and liabilities of prospective owner.	CHAPTER VI
	MISCELLANEOUS.
	40. Power to make rules.

AGRARIAN REFORMS ACT, 1976.

75

Section	Section
41. Succession.	Schedules
42. Inapplicability.	Schedule I
43. Repeal.	Schedule II
44. Validation.	Schedule III
	Part A
	Part B
	Part C

Amendments made by :—

1. Act No. V of 1978.
 2. Act No. V of 1979.
 3. Act No. VII of 1979.
 4. Act No. VIII of 1981.
 5. Act No. IX of 1981.
 6. Act No. IX of 1987.
 7. Act No. IV of 1989.
 8. Act No. XXXVIII of 1997.
 9. Act No. VI of 2002.
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THE JAMMU AND KASHMIR AGRARIAN REFORMS ACT, 1976

Act No. XVII of 1976

[Received the assent of the Governor on 21st August, 1976 and published in Government Gazette dated 21st August, 1976 (Extra)].

An Act to provide for transfer of land to tillers thereof subject to certain conditions and for better utilisation of land in the State of Jammu and Kashmir.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-seventh Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Agrarian Reforms Act, 1976.

(2) It shall extend to the whole of the State of Jammu and Kashmir.

¹[(3) It shall come into force with effect from such date as the Government may, by notification in the Government Gazette, appoint].

CHAPTER I

PRELIMINARY

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) “ceiling area” means the extent of land measuring twelve and a half standard acres ;

²[x x x x]

Category II One hundred and ten kanals ;

Category III One hundred and forty kanals ;

Category IV One hundred and seventy-one kanals ;

1. Enforced by SRO 295 dated 1-6-1978 w. e. f. 13-7-1978.

2. Omitted by Act No. V of 1978, s. 2

- ¹[(2) “Commissioner” means any person appointed to be the Agrarian Reforms Commissioner under section 18 and includes any person appointed to be the Joint Agrarian Reforms Commissioner under that section] ;
- (3) “defence force” means Army, Navy and Air Force of the Indian Union and includes Border Security Force ²[Central Reserve Police, Assam Rifles], Jammu and Kashmir Militia and Indo-Tibetan Border Force/Police ;
- (4) “demarcated forest” means a demarcated forest as defined in the Jammu and Kashmir Forest Act, Samvat 1987 ;
- (5) “evacuees’ land” means land which is evacuees’ property as defined in the Jammu and Kashmir Evacuees’ (Administration of Property) Act, Samvat 2006 ;
- (6) “family” means husband, his wife and their children excluding—
- (a) a married daughter ; and
- (b) a major son separated from his father on or before the first day of September, 1971 and holding land separately in his name ;
- (7) “head of the family” means the husband ; in case of his death, wife ; where both are dead, major son, if any, included in the family ; and in the absence of such major son, the guardian of the minor children ;

Explanation.—Where the deceased husband had more than one wife, each wife along with her children will constitute a subordinate unit of the family having a separate head in accordance with this definition ;

- (8) “intermediary” means a tenant not cultivating land personally and includes a person claiming through him ;

1. Substituted by Act No. IX of 1987, s. 2

2. Words inserted by Act No. VII of 1979, s. 2.

(9) “land” means land which was occupied, or was let, for agricultural purposes or for purposes subservient to agriculture or for pasture in Kharif, 1971 and includes—

- (a) structures on such land used for purposes connected with agriculture ;
- (b) areas covered by, or fields floating over, water ;
- (c) forest lands and wooded wastes ;
- (d) trees standing on land ; and
- (e) ¹[],

²[but does not include an orchard or] site of a building or a structure within municipal area, town area, notified area or village abadi or any land appurtenant to such building or structure ;

(10) “orchard” means a compact area of land having fruit trees grown thereon or devoted to cultivation of fruit trees in such number that the main use to which the land is put is growing of fruits or fruit trees ;

(11) “owner” means a land-holder, as defined in the Jammu and Kashmir Land Revenue Act, Samvat 1996 and includes a person claiming through him ;

(12) “personal cultivation” by a person shall mean cultivation—

- (a) by the person himself ; or
- (b) by any member of the family, if any, to which he belongs ; or
- (c) **by a khana-nishin** daughter or *khana-demad* or a parent of the person ; or

1. Sub-clause (e) to clause (9) omitted by Act No. V of 1978, s. 2.
 2. Substituted *ibid*.

- (d) by a son, adopted son or pisarparwardah, not included in the family, if any, to which the said person belongs ; or
- (e) by brother or sister of the person ; or
- (f) in the case of such religious or charitable institutions of public nature as are notified by the Government, by a member of the management or, on behalf of the management, by a servant or hired labourer on payment of wages otherwise than as a share of crop ; or
- (g) in the case of a person, who is minor, insane, physically disabled or incapacitated by old age or infirmity, widow or serving in defence force, or in detention or prison, by a servant or hired labourer under the personal supervision of the guardian or any agent of such person ; provided that such servant or hired labourer or guardian or agent does not bear the risk or cost of cultivation nor receives wages or remuneration as a share of crop ;

Explanations.—(i) Unauthorised cultivation shall not be deemed to be personal cultivation and, where land has been occupied unauthorisedly, the person who, but for such unauthorised occupation, would have been personally cultivating such land shall be deemed to be in personal cultivation :

Provided that in the case of land—

- (a) which cannot thus be deemed to be in the personal cultivation of any person ; or
- (b) covered by section 24 of the Jammu and Kashmir Big Landed Estates Abolition Act, Svt. 2007 ; or
- (c) rights wherein have been transferred against the provisions of any law for the time being in force ;

personal cultivation shall be deemed to be that of the State :

Provided further that only by reason of his having been in unauthorised cultivation, such person shall not be ineligible for allotment of the land becoming surplus under this Act, including such land.

(ii) Where any land has been exchanged in lieu of any other land as a result of consolidation proceedings under the Jammu and Kashmir Consolidation of Holdings Act, 1962, any person who was personally cultivating land, so exchanged, in Kharif, 1971 shall be deemed to have been personally cultivating, in that harvest, the land acquired in lieu of that land.

(iii) Where any land has been left fallow during Kharif, 1971 in normal course of agricultural husbandry, personal cultivation of such land in Kharif, 1971 shall be deemed to be of the person who personally cultivated it for three consecutive harvests prior to Kharif, 1971.

(iv) Land under ¹[] kah-krisham, pichi, bedzar or safedzar, land growing fuel or fodder, and unculturable or banjar land situated outside demarcated, undemarcated or berun-i-line forests, shall be deemed to be in personal cultivation of the owner.

(v) Patches of *gair-mumkin* and *zeri-sayah* (under the shade of trees) land existing in a survey number shall be deemed to have been in personal cultivation of the person cultivating the rest of the land in such survey number personally in Kharif, 1971.

(vi) Where land has been mortgaged with possession before or during Kharif, 1971 and the mortgage has not been redeemed before the commencement of this Act, the mortgagor shall, subject to the provisions of section 10, be deemed to have been personally cultivating such land in Kharif, 1971.

(vii) Where possession of land has been obtained temporarily on bilateral or trilateral basis or in lieu of payment of rent for purpose of transplanting saffron bulbs, in accordance with the custom known locally as '*kara-korh*' or '*kadawar*' in saffron growing areas of Kashmir Valley, personal cultivation of such land shall be deemed to be of that person who would, but for such custom, have been cultivating it personally.

(viii) Personal cultivation by a person shall not cease to be so merely because of engagement of hired labour :

Provided that the labour so engaged is supplemental to, and not in substitution of, the labour of such person ; and that such labour is paid wages in cash or kind but not in crop share.

1. The word 'orchard' omitted by Act No. V of 1978, s. 2.

(ix) For determining the person personally cultivating land during Kharif, 1971, entries in khasra girdawari shall be presumed to be true unless the contrary is proved.

(x) Where a person, after having been inducted as tenant by alienee of a limited owner, has been in continuous cultivating possession of such land for not less than twenty years prior to Kharif, 1971, such person shall be deemed to be in personal cultivation of such land, any judgment, decree or order of any court or authority notwithstanding.

Note :—For purposes of this clause, “limited owner” shall have the meaning as under the Mitakshara School of Hindu Law.

(13) “prescribed” means prescribed by rules made under this Act ;

(14) “prospective owner” means a person eligible, by or under this Act, to be vested with the rights of an owner ;

(15) “Schedule” means a Schedule appended to this Act ;

(16) “standard acre” means a measure of an area convertible into an ordinary acre of land in accordance with the provisions of Schedule I ;

(17) “tiller” means tenant cultivating land personally and shall mean and include a person who was tiller in Kharif, 1971 or his legal heirs or his transferee in the case of any valid transfer of land made between 1st September, 1971 and 1st May, 1973, subject to the competent Revenue Officer being satisfied about the existence of a *bona fide* transfer to this effect ;

Explanation.—A person who migrated from his place of residence during 1965 due to unavoidable circumstances shall be deemed to be a tiller of the land thus abandoned by him if such land was in occupation of somebody else as *Supard-dar* under orders of a competent authority ;

¹ [(18) Words and expressions not defined in this Act shall have the meaning as assigned to them in the Jammu and Kashmir Majority Act, Samvat 1977, the Jammu and Kashmir Tenancy Act, samvat 1980, the

1. Clause (18) substituted by Act No. V of 1978, s. 2.

Jammu and Kashmir Land Revenue Act, Samvat 1996, and the Jammu and Kashmir Displaced Persons (Permanent Settlement) Act, 1971].

Explanation.—For purposes of clauses (8) and (11), where a person, governed by Mitakshara School of Hindu Law, is recorded as owner or intermediary of ancestral property, his male lineal descendants in the male line of decent shall not, where he was alive on the first day of September, 1971, be deemed to be owners or intermediaries, as the case may be, of such property.

3. *Exceptions.*—The provision of this Act, except those specified in column 2 of the sub-joined table, shall not apply to the categories of land specified in column I thereof :—

<i>Column 1.</i>	<i>Column 2.</i>
(a) Evacuees' land ;	Clause (c) of sub-section (2) of section 4 and sections 5, 7, 13 and 14 and sub-section (3) of section 26.
Provided that nothing herein shall—	
(i) confer any ownership rights upon a displaced or other person in any evacuees' land ; or	
(ii) affect or interfere with the rights of possession or legal obligation of a displaced or other person conferred or imposed by or under any law, rule or order, for the time being in force in respect of such land.	
(b) Land owned, held or acquired by the Government of Jammu and Kashmir or the Government of India, other than,—	Sections 26, ¹ [XXX] 38 and 39
(i) land vested or deemed to have been vested in the State by or under this Act ; and	
(ii) land described in Schedule II	

1. Figure 31 omitted by Act No. XXXVIII of 1997, s. 2.

(c) Land owned by any industrial or commercial undertaking or set apart or acquired by the Government for use for industrial or commercial or residential purposes : ¹[XXX]

Provided that exemption under this clause shall cease to apply, if after such enquiry as may be prescribed, the Government is of the opinion that such industrial or commercial undertaking has failed to utilise the land for that purpose within such time as may be prescribed.

(d) Land owned, held or acquired by such educational and other public institutions as may be notified by the Government. Nil

(e) Land owned, held or acquired by the Universities of the State established by law and Municipalities, Town Area Committees, Notified Area Committees, Cantonment Boards and other local bodies and Panchayats of the State. Nil

(f) Land outside the District of Ladakh, which is unculturable or in the form of arak, kap or kah-i-krisham or which grows fuel or fodder and belongs to such class as is notified by the Government, not exceeding four standard acres per family. Sections 13 ¹[XXX]

Explanation.—For purposes of clause (f) the area should be unculturable or used for growing fuel or fodder and also recorded as such in the revenue records.

(g) Such lands in the district of Ladakh as are used for raising fuel or fodder or timber *e. g.* olthang, bedzar, safedzar. Sections 13 ¹[XXX]

(h) Land—

(i) requisitioned under any law for the time being in force ; or ¹[XXX]

(ii) situate in depopulated villages of Poonch and Rajouri Districts and notified as such by the Government ; or ¹[XXX]

(iii) lying in such border areas as are declared by the Government to be insecure for cultivation : ¹[XXX]

1. Omitted by Act No. XXXVIII of 1997, s. 2.

Provided that such provisions of this Act, as are notified by the Government, shall apply to such lands as and when such lands are de-requisitioned or permitted to be reoccupied or become secure for cultivation, as the case may be,—

(i) Private springs, wells and village roads. Nil

(j) Residential buildings or structures along with sites thereunder and land appurtenant thereto : ¹[xxx]

Provided that the area under and appurtenant to such residential building or structure does not, along with land exempted by clause (1) and the area under and appurtenant to a building in municipal area, notified area, town area or village *abadi*, exceed four kanals per family :

Provided further that such exemption may be utilised by a person for his personal use or for use by a co-operative society, of which such person is a member, or for both, subject to the condition that the aggregate area so utilised does not exceed the maximum of four kanals per family.

(k) Such land as is reserved by the Government for grazing ground or for any public purpose. Section 38.

(l) Land reserved or acquired for residential purposes subject to the provisos to clause (j) ¹[xxx]

(m) Cemeteries and Burning or burial grounds and land under places of worship or appurtenant thereto according to the revenue records of Kharif, 1971. Nil

(n) Land vested in the State under the provisions of the Jammu and Kashmir Big Landed Estates Abolition Act, Samvat 2007 and retained under sub-section (2) of section 6 of the said Act ,—

(i) under personal cultivation ; Section 15 and clause (a) of section 16.

(ii) through a tiller. Sub-section (1) of section 4, sections 5 and 6, and sub-

1. Omitted by Act No. XXXVIII of 1997, s. 2.

section (2) of section 8, sub-sections (1) and (8) of section 9, section 15 and clause (b) of section 16.

(o) Land held by a co-operative farming society : **Section 13¹[x x x x]**

Provided that no share-holder of the society shall, along with the other members of the family, if any, to which he belongs hold land, including his share of land in such society, in excess of the ceiling area.

²[3-A. Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, displaced persons cultivating evacuees' lands personally shall in respect thereof be deemed to be occupancy tenants and recorded as such . They shall be liable to pay rent equal to the amount of land revenue and cesses assessed thereon :

Provided that such displaced persons shall have right to transfer their right of occupancy/tenancy by sale, mortgage or gift subject to the provisions of the Alienation of Land Act, and the provisions of section 60 of the J&K Tenancy Act, Samvat, 1980 shall not apply to such transfer].

CHAPTER II

RESTRICTION ON RIGHTS IN LAND

4. *Vesting in the State of rights in land not held in personal cultivation.*—(1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of this Chapter, all rights, title and interest in land of any persons, not cultivating it personally in Kharif, 1971, shall be deemed to have extinguished and vested in the State, free from all encumbrances, with effect from the first day of May, 1973.

(2) Nothing in sub-section (1) shall apply to—

(a) land held by gumpas of Ladakh Districts :

Provided that the rights of tenants thereof shall be heritable according to the law of succession applicable to occupancy tenants and that no tenant

1. Omitted by Act No. XXXVIII of 1997, s. 2.

2. Section 3-A inserted by Act No. V of 1978, s. 3.

or his successor shall be subject to payment of rent exceeding ¹[x x x x] the prevailing rent ¹[x x x x] whether in cash or in kind ;

²[(b) (i) unit of land not exceeding 182 kanals including residential sites Bedzars and Safedzars ; and

(ii) ³[Land]

held by such places of worship, waqafs or Dharmshallas, as are recorded in the revenue records or ³[notified by the Government from time to time or donated for purposes of wakaf by any person professing Islam or used as a wakaf property] :

Provided that the rights of tenant thereof shall be heritable according to the law of succession applicable to occupancy tenants ;

⁴[x x x x].

(c) land mentioned in Schedule II allotted to a displaced person ;

Provided that :—

(i) such land and evacuees' land, if any, allotted to the same displaced person, is situated in more than one village ; and

(ii) such displaced person cultivated personally the land in at least one village in Kharif, 1971.

⁴[4-A. *Cancellation of mutation.*—Notwithstanding anything contained in any law for the time being in force or judgment or decree of a civil court any mutation attested under sections 4, 8 or 12 of this Act after its commencement, for any land mentioned in section 3 or sub-section (2) of section 4 by any revenue officer either on his own or in pursuance of any order of higher authority or order or judgement of a civil court shall be *void, ab initio*].

5. *Vesting of personally cultivated land in excess of ceiling area in the State.*—(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of this Chapter—

(a) Where any land, held by an individual in personal cultivation whether as owner or as tenant or otherwise, was in excess of

1. Words omitted by Act No. V of 1978, s. 4.

2. ~~Clause (b) substituted~~ *ibid.*

3. Substituted by Act No. VI of 2002, s. 2.

4. Section 4-A inserted *ibid*, s. 3.

the ceiling area on the first day of September, 1971, the rights, title and interest of such individual in the excess land shall be deemed to have vested in the State, free from all encumbrances, on the first day of May, 1973 ;

- (b) Where aggregate land held in personal cultivation by the members of a family, whether jointly or severally, as owners or as tenants or otherwise, was in excess of the ceiling area on the first day of September, 1971, the rights, title and interest of such members in the excess land shall be deemed to have vested in the State, free from all encumbrances, on the first day of May, 1973.

(2) Such individual or the head of such family, as the case may be, shall have the option of selecting, in such manner and subject to such conditions, as may be prescribed, the land such individual or family desires to retain with himself or itself, as the case may be, within the limits provided for by this Act, but no land in a demarcated forest shall be so selected :

Provided that the selection made from the holdings of different members of a family shall be proportionate to the area of land held by each member of the family, unless the wife and the husband agree otherwise.

6. *Vesting of dwelling house and of the site thereunder and land appurtenant thereto in the State in certain cases.*—(1) Notwithstanding anything contained in any other law for the time being in force or in any contract, instrument, custom or usage or in any judgment, decree or order of a Court, but subject to the provisions of this Chapter ; where—

- (a) a dwelling house was, on the first day of September, 1971, occupied by a person who is a tiller or is a member of a scheduled caste or is a landless agricultural labourer or is a gujjar or a bakarwal or gaddi or is a landless labourer engaged in occupation ancillary to agriculture ; and
- (b) the site of such dwelling house and the land appurtenant thereto is not owned by such person ;

the rights, title and interest in such dwelling house and the site thereunder and land appurtenant thereto shall be deemed to have extinguished and vested in the State on the first day of May, 1973 :

Provided that rights, title and interest in such dwelling house shall not vest in the State where it has been built at the expense of such person or any of his predecessors-in-interest :

Provided further that where such person has been in occupation of such dwelling house for a continuous period of ten years on the date of commencement of this Act, he shall be deemed to have acquired ownership of such dwelling house in lieu of service rendered by him to the owner of land under and appurtenant to such dwelling house.

(2) The area under and appurtenant to such dwelling house as is mentioned in sub-section (1) shall not, along with the area under and appurtenant to a building in municipal area or town area or notified area or village abadi and such land as is exempted by clauses (j) and (1) of section 3, exceed in the aggregate four kanals for such person and all the members of the family, if any, to which he belongs.

7. *Resumption for bona fide personal cultivation by ex-landlord.*— (1) Subject to the provisions of this section—

- (a) an individual, whose rights in land have been extinguished by section 4 and who was entitled to recover rent in Kharif, 1971 directly from the tiller, may resume land out side demarcated forests for purposes of *bona fide* personal cultivation ;
- (b) where rights in land of one or more than one member of a family have been extinguished by section 4 and such member or members were entitled to recover rent in Kharif, 1971 directly from the tiller, such member or members may resume land for *bona fide* personal cultivation ;
- (c) a displaced person allotted evacuees' land or land included in Schedule II, who is not cultivating such land personally, may resume such land for *bona fide* personal cultivation.

(2) Resumption of land permitted by sub-section (1) shall be subject to the following conditions, namely :—

- (a) the application for resumption shall be made in the prescribed manner within ¹[one year] of the commencement of this Act ;
- (b) the applicant for resumption, shall ²[within six months from the date of resumption of land] take up normal residence for the

1. Substituted by Act No.V of 1979, s. 2.
 2. Substituted by Act No.VII of 1979, s. 3.

purpose of cultivating such land personally in the village in which the land sought to be resumed is situated or in an adjoining village ¹[except in the case of —

- (i) a person serving in defence force, who shall take up such normal residence for personal cultivation within six months of the date on which he ceases to serve in defence force ; or
- (ii) a widow or a person who is physically disabled or incapacitated by old age or infirmity] :

Provided that in the case of land situated in an un-inhabited village on or near the border, such residence shall be taken up within the period indicated above in the nearest inhabited village or in the adjoining village :

Provided further that a displaced person who has been allotted land in more than one village, shall take up such residence in any one of such villages or in the adjoining village :

²[Provided also that a person who is minor or insane shall take up such residence within six months of the date on which he attains the age of majority or attains sanity.]

- (c) land held by a tiller paying rent at village rates (*hasab-partadeh*) with or without malikana or by a tiller, who is an occupancy tenant, shall not be resumed ;
- (d) no person, who or any member of whose family, if any, is an income-tax payer, shall be eligible to resume any land ;
- (e) the person who has transferred land by sale or gift or bequest on or after first day of September, 1971 shall not be eligible to resume land if the land so transferred was personally cultivated by him prior to such transfer ;
- (f) the extent of land that may be resumed shall, subject to the provisions of sub-section (3), be determined in the following manner, namely : —

1. Substituted by Act No. IV of 1989, s. 2
2. Proviso inserted *ibid*.

- (i) where a person was entitled, as according to records, to rent in kind from the tiller during Kharif, 1971, the extent of the land resumable by such person shall bear the same proportion to the total land comprising the tenancy as the rent in kind bears to the total produce ;
- (ii) where a person was entitled, as according to records, to rent in cash during Kharif, 1971, the extent of land resumable by such person shall be regulated by the extent of rent in kind to which such rent in cash can be commuted in accordance with the provisions of sub-sections (3) and (8) of section 9 ;
- (iii) a person serving in defence force on or after the 1st day of April, 1965, ¹[an ex-serviceman of the defence force] or a widow or an orphan who is minor or a lunatic or an imbecile, or an insane person or a person who is crippled or incapacitated by old age or infirmity, shall be permitted to resume land twenty per centum in excess of the land otherwise resumable under sub-clauses (i) or (ii) ;

²[(g) no person, who or any member of whose family holds an orchard exceeding one hundred kanals, shall be eligible to resume land].

(3) The aggregate land that a person resuming land shall hold in personal cultivation, after resumption, along with other members of the family, if any, to which he belongs, shall not exceed 6.50 standard acres where such person belongs to the category of persons mentioned in sub-clause (iii) of clause (f) of sub-section (2) and five standard acres in other cases ³[:

Provided that an ex-servicemen of the defence force or a persons service in defence force shall be allowed to hold one additional standard acre over and above ceiling fixed in this sub-section :

Provided further that in the case of a person eligible to resume land under clause (g) of sub-section (2), the aggregate land including the orchard held by him shall not exceed one hundred kanals].

1. Inserted by Act No. V of 1978, s. 5.

2. Clause 'g' added *ibid*.

3. Fullstop substituted by colon and provisos added thereafter by Act No. V of 1978, s. 5.

(4) The person resuming land under this section shall be vested with ownership rights in such land, other than evacuees' land, and he shall be placed in possession thereof, after the tiller removes the crop, if any, standing on such land and, where no crop is standing but the land has been prepared for sowing, after such tiller is paid therefor in the prescribed manner.

(5) Where any person resuming land under this section fails to cultivate the land personally with in one year of entering into possession, such land shall vest in the state, except where such failure is due to circumstances beyond his control.

(6) The identity of the land to be resumed shall be determined by a Revenue Officer, in the prescribed manner, having regard to the reasonable convenience of both the parties :

Provided that land under and appurtenant to a dwelling house mentioned in section 6 shall not be resumed.

Explanation.—For purposes of this sub-section, the land under and appurtenant to the dwelling house shall not, along with the land exempted by clauses (j) and (1) of section 3 and land under and appurtenant to a building or structure in a municipal area, town area, notified area or village abadi, exceed four kanals for a family.

(7) No resumption by consent shall be permissible if, as a result of such consent, the ex-landlord is able to resume more land than he is entitled to according to the provisions of this section.

8. *Vesting of ownership rights in land in prospective owner.*—(1) Notwithstanding anything contained in any law, for the time being in force, but subject to the provisions of sections 5 and 14, where an ex-landlord resumes land under section 7, the tiller, from whom land is so resumed, or his legal heirs shall be vested with ownership rights in land left with him or his heirs, as the case may be, after resumption in the following manner, namely :—

- (a) Where the ex-landlord resumes the entire land permissible under clause (f) of sub-section (2) of section 7, without payment of any levy and has soon as the ex-landlord is given possession of resumed land ; and
- (b) Where the ex-landlord does not resume the entire land permitted by clause (f) of sub-section (2) of section 7 because of the provisions of sub-section (3) of section 7 ,—
 - (i) after payment of such levy in such manner as is provided for in Schedule III for the portion of such land which, though resumable by such ex-landlord under clause (f) of

sub-section (2) of section 7, is not resumed because of the provisions of sub-section (3) of section 7 ; and

- (ii) without payment of any levy and after the ex-landlord is given possession of the resumed land, for the portion of such land left with such tiller other than that mentioned in sub-clause (i).

(2) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of sections 5 and 14, where an ex-owner/ex-intermediary does not or cannot resume any land, the tiller of Kharif, 1971 holding land under him shall be vested with ownership rights in such land after payment in full of such levy in such manner as is provided for in Schedule III.

(3) A person mentioned in sub-section (1) of section 6, occupying a dwelling house vested in the State under section 6, shall, subject to the conditions mentioned in sub-section (2) of the said section 6, be vested with ownership rights in such dwelling house and the land under and appurtenant to it, on payment of such levy in such manner as is provided for in Schedule III, notwithstanding anything contained in any other law for the time being in force.

(4) Where such land as is mentioned in sub-section (1) has been or is declared for acquisition by the Government under any law for the time being in force and the prospective owner thereof has not acquired ownership rights until the date of such declaration, vesting of ownership rights until the date of such declaration, vesting of ownership rights in such land in such person shall not be effective and the instalments of levy, if any, paid shall be refunded to such person in lump sum with interest at five per centum per annum.

9. *Payment of rent by the tiller.*—(1) A tiller shall, in respect of land vested in the State by section 4, pay to the State rent, which was payable by him to the ex-landlord prior to the first day, 1973 in such form and in such manner as may be prescribed, until such land is resumed under section 7 or until such tiller acquires ownership rights therein under section 8.

(2) The Government shall arrange to pay such rent in such form and such manner as may be prescribed, after deducting therefrom ten per centum of the cash equivalent thereof as collection charges to the ex-landlord, or to the person claiming through him, until such time as is specified in sub-section (1).

(3) The Government shall notify from time to time the cash equivalent of different types of agricultural produce for purposes of this section.

(4) Where the ex-landlord mentioned in sub-section (1) was an intermediary holding land, prior to the first day of May, 1973, under an owner, nothing herein shall be deemed to affect the liability of such intermediary to pay rent (after deducting therefrom the share of collection charges calculated on pro-rata basis) to such ex-owner for such land, and such rent shall, after such deduction be payable by such ex-intermediary to such ex-owner as if their rights had not been extinguished by section 4, and provisions of the Jammu and Kashmir Tenancy Act, Samvat 1980 relating to recovery of rent shall apply thereto.

(5) The right of ex-intermediary or ex-owner to recover rent for land from the State or from such ex-intermediary, as the case may be, shall be heritable according to the law of succession that was applicable to him before the extinguishment of rights in such land and shall also be transferable subject to provisions of section 31.*

(6) The liability for payment of land revenue together with cesses and dues payable under any law or rule, for the time being in force of an ex-owner of land shall continue during the period he is entitled to recover from the Government or from the ex-intermediary, as the case maybe, rent under this section, and for purposes of the Jammu and Kashmir Land Revenue Act, 1996 such ex-owner shall be deemed to be a land-holder.

(7) Arrears of rent accrued due from the first day of May, 1973 up to the date of commencement of this Act shall also be recoverable by the Government from the tillers in such form as may be notified and paid to the ex-landlord after deducting ten per centum as collection charges.

(8) Where rent was recoverable in kind prior to the first day of May, 1973, the following rates of produce shall be assumed for purposes of calculating rent recoverable from the prospective owner under this section, namely :—

- (i) where the prospective owner and the ex-owner agree, the rates of produce so agreed upon by them ;
- (ii) where there is no agreement between the prospective owner and the ex-owner, chakla rates ;

* Section 31 has been omitted by Act No. XXXVIII of 1997, s. 3. So the words “subject to provisions of section 31” have become redundant and need to be deleted (Editor).

- (iii) where complaint is made to a revenue Officer that chakla rates are higher than actual rates of produce, the rates of produce that shall be determined by the Collector after summary enquiry ; and
- (iv) where chakla rates are not available, the rates that shall be notified by the Government after necessary enquiry.

10. *Mortgages of land.*—(1) Where land, which has vested or vests in the State by section 4 or section 5 or section 6, is subject to mortgage without possession and mortgage subsists on the date when, in lieu of extinguishment of rights in such land payment is to be made in accordance with the provisions of Schedule III, the mortgagee shall be paid such amount, in such manner and in accordance with such procedure, as is provided in the aforementioned Schedule, anything to the contrary contained in any law, decree or order of a Court or any contract notwithstanding.

(2) Where land is subject to mortgage with possession and the mortgage subsists on the date of commencement of this Act, the restitution of such land shall, notwithstanding anything to the contrary contained in any law, decree or order of a Court or a Revenue Officer or any contract, be effected in the manner and according to the procedure given below, namely :—

- (a) The mortgagor may apply for restitution of such land to the Collector, having jurisdiction in the area in which it is situate. The Collector shall, on receipt of such application give an opportunity to the mortgagor and the mortgagee of being heard and make such further enquiry as may be necessary.
- (b) (i) Where the Collector finds that the value of benefits enjoyed by the mortgagee equals or exceeds the cost of improvements, if any, effected by such mortgagee, in accordance with the terms of the mortgage deed, plus one and a half times the amount of the principal money, he shall, by order in writing, direct that the mortgage be redeemed and shall put the mortgagor in physical possession of the land ;
- (ii) Where the Collector finds that the value of benefits enjoyed by the mortgagee, while in possession, is less than the cost of improvements, if any, effected by such mortgagee in accordance with the terms of the mortgage deed, plus one and a half times the amount of the principal money, he shall, by order in writing, direct that the mortgaged land be restored to the mortgagor and he

be put in possession thereof subject, however, to the payment of amount, if any, due to the mortgagee :

Provided that, in calculating the amount due, interest shall be charged only on the principal money, at a rate not higher than 5% per annum :

Provided further that in no case shall the principal sum plus interest thereon exceed one and a half times the principal money :

Provided also that where the mortgagee has been in possession of the mortgaged land for a period of ten years or the period during which the mortgage was to subsist according to the terms of the mortgage deed, whichever is less, it shall be conclusive proof of the fact that the mortgagee has received one and a half times the amount of principal money as well as the cost of improvements, if any.

- (c) Where the Collector finds that any sum is due to the mortgagee under clause (b), he may order the deposit of the amount found due from the mortgagor in such annual instalments, not exceeding ten, as the Collector may, with due regard to the paying capacity of the mortgagor, deem fit.
- (d) In determining the amount due, the Collector shall give credit to the mortgagor for the value of the benefits to be enjoyed by the mortgagee during the period covered by the instalments.
- (e) The Collector may order that, in lieu of the deposit of the amount found due, the mortgagee shall enjoy the profits of the mortgaged land for a period to be determined by the Collector with due regard to the amount found due and the profits accruing from the land :

Provided that such period shall not exceed ten years or the period during which the mortgage was to subsist, according to the terms of mortgage deed, whichever is less, reckoned from the date the mortgagee came into possession of the land under the mortgage.

- (f) The mortgagor shall be deemed to have complied with the order of deposit if the whole of the amount found due is deposited within the period covered by instalments.

11. *Payment in lieu of extinguishment of rights in land.*—Subject to the other provisions of this Chapter, land and rights therein taken away or abridged by section 4 or section 5 or section 6 shall be deemed to have been acquired by the State with effect from the date such land or rights are

vested in it and payment in lieu thereof shall be determined and made in accordance with the provisions of Schedule III :

Provided that where an ex-landlord resumes land, he shall not be entitled to any payment in lieu of extinguishment of his rights in the land, remaining after resumption with the tiller, except for the area of land, if any, by which the area actually allowed to be resumed under sub-section (3) of section 7 falls short of the area that was resumable under clause (f) of sub-section (2) of section 7 and the right of such ex-landlord to recover rent under section 9 shall cease, except to the extent indicated above, as soon as he is given possession of resumed land :

Provided further that where any land is held by a person in personal cultivation he shall be entitled to compensation for his rights in any portion of such land, as is within the ceiling area applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, at the market value thereof.

12. *Private agreement.*—Where an ex-owner of land, or, if such ex-owner had an intermediary under him prior to the first day of May, 1973, such ex-owner and such ex-intermediary jointly, and the prospective owner of such land by an agreement in writing, duly registered under the Jammu and Kashmir Registration Act, 1977 or authenticated by a Revenue Officer of a class not lower than a Tehsildar—

- (a) respectively acknowledge receipt and payment of an agreed amount ; and/or
- (b) admit having apportioned such land as between themselves in an agreed manner and having entered into possession of their respective shares in accordance therewith ;

such payment or such apportionment of land or both, as the case may be, shall be given due effect and shall relieve the state of its liability to make payment to such person and also relieve the prospective owner of his liability to pay levy to the State :

Provided that in case of apportionment of land the ex-landlord shall not have in his share more land than could be resumed by him under clause (f) of sub-section (2) of section 7, if he were otherwise eligible to resume land.

13. *Restriction on utilization of land.*—(1) After the commencement of this Act no person shall hold land, otherwise than for personal cultivation (except where tenancy is permitted by this Act), or for residential purposes up to ¹[two] Kanals per family or, subject to the provisions of the

1. Substituted by Act No. IV of 1989, s. 3.