

ASSAM ACT I OF 1957

THE ASSAM FIXATION OF CEILING ON LAND HOLDINGS ACT, 1956

(Received the assent of the President on the 7th December 1956.)

[Published in the Assam Gazette, dated the 16th January 1957]

An

Act

to impose limits on the amount of land that may be held by a person.

Preamble.

Whereas it is deemed necessary to make provision for imposition of limits on the amount of land that may be held by a person.

It is hereby enacted in the Seventh Year of the Republic of India as follows :—

CHAPTER I

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Fixation of Ceiling on Land Holdings Act, 1956.

[(2) It extends to the districts of Lakhimpur, Dibrugarh, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara and Cachar in the State of Assam.]¹

(3) It shall come into force on such date as the State Government may by notification in the official Gazette, appoint.

[(4) The State Government may, by notification published in the official Gazette from time to time, extend the Act to such other areas as may be specified in the notification.]²

2. "3[Exception :—The provisions of this Act shall not apply to—(1) lands held by State Government or by the Union Government or by any local authority or by any Agriculture Farming Corporation constituted under the Assam Agricultural Farming Corporation Act, 1973.

1. Substituted by A. F. C. L. A. (Annual Act) 1975 [No IX of 1975]

2. Inserted by Assam Act IX of 1975.

3 Substituted ibid

- (2) (a) lands held and utilised for special cultivation of tea and purposes ancillary thereto,
- (b) lands held by a mill, a factory, or a workshop as the case may be, for the purposes of the expansion of the mill, factory or workshop, or for ancillary purposes of the mill, factory or workshop, such as setting up of schools, dispensaries and roads, but not for any other purpose :
- (c) land held by a co-operative farming society for cultivation of sugar-cane only for the purposes of feeding a co-operative sugar factory:

Provided that if at any time, such lands cease to be utilised for the purposes mentioned in the above said sub-clause, the provisions of this Act shall apply;

- (3) land vesting in a Gran Sabha under the Assam Gramdan Act, 1961.³ **Assam Act 1 of 1962.**

3. Definition:—In this Act, unless the context otherwise requires:

- (a) ["agriculture" includes horticulture, arboriculture, pisciculture, piggery, animal husbandry poultry and other allied purposes".]²
- (b) the words "annual lease" has the meaning assigned to it in the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886);
- (c) "Collector" means the Deputy Commissioner or any other Officer authorised by the State Government to perform the function of a Collector under this Act ;
- (d) ³["family" means a family consisting of any one or more of the following, namely :—
- (1) husband, (2) wife, (3) minor children and also includes a joint family.]³

[**Explanation**— "Joint family" means a family of which the members are descendants from a common ancestor and have a common mess, and shall

1. Substituted by Assam Act IX of 1975.
 2. Substituted by ibid.
 3. do

include wife or husband, as the case may be, but shall exclude married daughters, married sons and their children :

Provided that a family consisting of father, and/or mother, sons and/or unmarried daughters holding lands jointly shall be presumed to be joint inspite of having a separate mess"]¹

(e) [* * *]²

(f) "[“land” means land which is or may be utilised for agricultural purposes or purposes subservient thereto, and includes the sites of buildings appurtenant to such land and also includes land which is or may be utilised for quarrying stones ;”]

(g) the words “land-holders” has the meaning assigned to it in the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) ;

(h) “ landlord “ means a person immediately under whom a tenant holds but does not include the Government :

(i) “ owner “ includes proprietor, land-holder or settlement-holder as defined in Section 3 of the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886), but does not include Government :

(j) [“person“ includes an individual, a family, a joint family, a trustee, a company, a body corporate, a partnership firm, a society or an association of individuals whether incorporated or not ;]⁴

(k) “personal cultivation“ means cultivation —

(i) by the person himself, or

(ii) by any member of his family, or

(iii) [by servants or hired labourers on fixed remuneration payable in cash or kind but not in crop-share, under personal supervision of the person himself or any member of his family, provided it is accompanied by the bearing of risks of cultivation by the owner and by residence in the village in which the land is situated or in a nearby village or town within a distance of 8 K. M. during the greater part of the agricultural season :

I. Substituted by the Assam Act IX of 1975

Deleted by the Assam Act IX of 1975

Substituted by the Assam Act IX of 1975

Substituted by the Assam Act IX of 1975

Substituted by the Assam Act IX of 1975

Provided further, that in the case of a person who is a widow or a minor, or is subject to any physical or mental disability or is a member of Military, Naval or Air Forces of the Union, or who is a student, below the age of twenty one years of any educational institution recognised by the State Government, the land shall be deemed to be under personal cultivation even in the absence of such personal supervision;]⁵

- (l) "Prescribed" means prescribed by rules made under this Act;
- (m) The expression "public purpose" include a purpose connected with settlement of land with actual cultivator or co-operative farming society;
- (n) "Rent" means whatever is lawfully payable in money or in kind on account of use and occupation of land;
- (o) "Tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to the other person and includes a person who cultivates the land of another person on condition of delivering a share of the produce.]]

CHAPTER II

Ceiling on existing holding and acquisition of excess land.

Ceiling on
existing
holding

4. (1) [Notwithstanding anything to the contrary in any law, customs or agreement, no person shall be entitled to hold as owner or tenant, land which exceed the limit of 50 bighas in the aggregate and this limit of 50 bighas shall be applicable to the aggregate of the lands held individually by the members of a family or jointly by some or all the members of such a family;

Provided that where the person holds 'orchard lands' the afore-mentioned limit shall be increased by the actual area of the orchard subject to a maximum of 4 bighas over the limit of 50 bighas mentioned above.]]²

Inserted by deleting the "fullstop" by Assam Act No. XVII of 1957.
2. Substituted by the Assam Act IX of 1975.
3. Substituted by the Assam Act IX of 1975.

(2) [Notwithstanding anything to the contrary in any law, custom or agreement, no person shall be entitled to hold as owner or tenant, lands, for special cultivation of tea in excess of such land as has been used for special cultivation of tea and purposes ancillary thereto on the day of commencement of the Assam fixation of Ceiling on Land Holdings (Amendment) Act, 1970.]³

Provided that the State Government may allow more lands to be held for ancillary purposes and for increase in area under special cultivation of tea in accordance with the rules as may be prescribed.

Explanation—Purposes ancillary to special cultivation shall mean the following:—

- (i) land used for factory buildings,
- (ii) land used for staff building including labour line,
- (iii) land used for roads, bridges, and drains within the tea estate,
- (iv) land used for nurseries including shade trees,
- (v) [land used for hospitals, dispensaries, creches, recreation centres and playgrounds]¹
- (vi) land used for religious institution, burial or cremation ground.
- (vii) land used for any other building built by management as a statutory requirement under any law for the time being in force,
- (viii) land used for seed bari,
- (ix) lands used as may be needed for rotational plantation to maintain the planted areas as on the commencement of this Act but not exceeding $7\frac{1}{2}$ per cent of the planted area,
- (x) lands lying within the boundaries of the actual planted area excluding tenanted khet lands,
- (xi) lands used for bamboos bari but not exceeding 50 bighas.²

1. Substituted by Assam Act IX of 1975,

2. Inserted as Sub-section by Assam Act VIII of 1971.

[(3) The Ceiling of a Co-operative Farming society shall be the aggregate of the ceiling of its individual members of their families under sub-section (1) above:

Provided that lands held outside the society by a member of a Co-operative Society or any member of his family shall also be taken into account for determining his ceiling.]³

(4) No benami transfer made after the twelfth day of November 1955, shall be taken into account in determining the limit upto which the transferor shall be entitled to hold lands under Sub-section (1) above and in such case the limit and the excess land of the transferor shall be determined as if the transfer has not taken place.]¹

“(5) No person who holds land in excess of the limit fixed under Section 4 shall, on or after the commencement of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970, transfer or partition any land until the land in excess of such limit is determined and possession taken over by the Collector under the Act.”²

Assam Act,
VIII of
1971

Provided that for special reason to be recorded in writing, the Collector may permit transfer or partition of the land or any portion thereof

Explanation—In this section the expression transfer shall have the same meaning as defined in section 5 of the Transfer of Property Act (Central Act IV of 1882) and “partition” means any division of land by act of parties made inter vivos.

(6) If any person,

transfers or partitions in contravention of the provision of Sub-section (5), or

[Transfers or partitions any land after the first day of April, 1970, i.e., the day on which this Amending Bill was introduced in the Assam Legislative Assembly; but before the commencement of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970]*¹ in anticipation of, or in order to avoid or defeat the objects of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970,]* then the area so transferred or partitioned shall be taken into account in

1. Sub-section 2 removed and substituted as above by Assam Act XVII of 1975.

2. Substituted by Assam Act IX of 1975.

3. Added by Assam Act VII of 1957.

calculating the area which that person is entitled to hold, and land exceeding the area so calculated shall be deemed to be in excess of the limit fixed under section 4 notwithstanding that the land remaining with him may not, in fact, be in excess of such limit.

If by reason of such transfer or partition the holding of that person is less than the area so calculated to be in excess of such limit, then all his land shall be deemed to be surplus land; and out of the land so transferred or partitioned and in possession of this transferred land to the extent of such deficiency shall subject to rules made in that behalf also be deemed to be surplus land notwithstanding that the holding of the transferred may not, in fact, be in excess of the limit fixed under section 4.

All transfers and partitions made after the first day of April, 1970, i.e., the day on which this amending Bill was introduced in the Assam Legislative Assembly, but before the commencement of [the Assam Fixation of Ceiling on Land Holdings (Amendment) Act 1970] Act, shall be deemed, unless the contrary is proved, to have been made in anticipation of, or in order to avoid or defeat the objects of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970.]*1

Submission of return by person holding land in excess of the ceiling. 5. Any person who, on the date of commencement of this Act, [* * *] holds as owner or tenant lands which in the aggregate, exceed the limit fixed under section 4 above, shall within the prescribed period, submit to the Collector a return giving the particulars of all his lands in the prescribed form and stating therein his selection of plot or plots of land (not exceeding in the aggregate the limit fixed under section 4 above) which he desires to retain under the provision of this Act.

Collection of information through other agency. 6. If any person holding lands in excess of the limit fixed under section 4 above fails to submit the return and intimate his Selection within the prescribed period as required under section 5 above, then the Collector may obtain the information required to be shown in the return through such agency as may be prescribed and select the plot or plots of land which such person is entitled to retain under the provisions of this Act as also the plot or plots which are in excess.

Submission of statement to Government. 7. On the basis of the information given in the returns under section 5 above which shall be duly verified through such agency as may be decided by the Government or the information obtained by the Collector under section 6 above, the Collector shall

*1. The word "this Act" whenever occurs have been substituted by "the Assam Fixation of Ceiling on Land Holdings [Amendment] Act, 1970"

*T Inserted by Assam Act VIII of 1971 as sub-sections 5 and 6.

1. Deleted by the Assam Act No. XXVII of 1960

prepare a draft statement showing among other particulars, the total area of lands held by such persons, ***2 the specific plots selected for retention with them, and also the land in excess of the limit fixed under section 4 remaining after such selection.

(2) The draft statement shall be published in the offices of the Deputy Commissioner, the Sub-divisional Officer, the Circle Sub-Deputy Collector and the Mauzadar, and a copy thereof shall be served on the person or persons concerned in the manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Collector and after giving the objector an opportunity for hearing order shall be passed on these objections.

[Provided that where the Collector in his final order thereon holds that there is no excess land for acquisition, he shall submit all connected records to the Government for approval].¹

(3) Any person aggrieved by an order of the Collector under the foregoing sub-section, may, within 30 days of the order, prefer an appeal to the State Government.

(4) Without prejudice to any action under sub-section (3) above, the State Government may of its own motion call for any record relating to the draft statement at any time within [two years]^{*2} of the order of Collector under sub-section (2) above, and after giving the person or persons concerned an opportunity for hearing pass such orders as deemed fit.

(5) Any order of the State Government under sub-section (3) or (4) above or of the Collector when no appeal is preferred under sub-section (3) or revision made under sub-section (4) shall be final.

(6) The draft statement shall then be made final in terms of the final order of the Collector or the Statement or the State Government as the case may be and republished in the offices mentioned in sub-section (2) and no person shall then be entitled to question it in any court of law.

(7) Subject to the provision of section 19, the final statement shall then be submitted to the State Government without the least possible delay.

Acquisition
of excess
lands by
the State
Government.

8. The State Government shall acquire such excess lands by publishing in the official Gazette a notification to the effect that such lands are required for a public purpose and such publication shall be conclusive evidence of the notice of acquisition to the person or persons holding such lands.

2. Deleted by *ibid*

*2 Substituted by Assam Act VIII of 1971

Vesting of Lands in the State. 9. On publication of the notification under section 8 above, all rights, title and interests of such person or persons in such excess lands shall stand transferred to the State Government with effect from the date of publication of the notification free from encumbrances created by such person or persons.

Service of notification 10. As soon as may be after the publication of the notification under section 8 above the Collector shall cause a copy of the notification to be served in the manner prescribed on person or persons holding such excess lands.

Taking possession. 11. [The Collector may at any time after the lands are transferred to the State Government under section 9 proceed to take possession thereof and may, for that purpose, use such force as may be necessary.

Taking possession in advance "11 A. Notwithstanding anything contained in this Act or in any other law for the time being in force:—

(1) When it appears from a return submitted by a person under Section 5 or 22 of this Act that there is any land in excess of the ceiling limit the Collector may, by an order in writing, take possession of such excess lands. In doing so the Collector shall take possession of that land which has not been selected to be retained and in case when no such selection has been indicated in the return the Collector shall himself select the lands to be taken possession of.

(2) When it appears from a return submitted by a person under Section 5 or 22, that the particulars shown therein are not correct and the Collector finds from information received by him that there are lands in excess of the ceiling limit the Collector may, by an order in writing, take over possession of such excess lands. While doing so the Collector shall himself select the lands to be taken possession of.

(3) When no return has been submitted under this Act by any person in respect of his lands but the Collector finds from information received by him that the person holds lands in excess of the ceiling limit, the Collector may, at any time, by an order in writing, take over possession of such excess lands. While doing so the Collector shall himself select the lands to be taken possession of.

(4) When the Collector has passed an order under sub-section (2) of section 7 showing therein any land to be in excess of the ceiling limit applicable to the person concerned he shall by an order in writing take possession of such excess land.

(5) No order for taking possession shall be passed under any of the previous sub-sections unless it appears to the Collector to be necessary to do so in public interest or for securing proper management of the lands in question.]¹

(6) [When possession is taken of any land under any of the preceding sub-sections, the person whose lands are taken possession of shall be paid for each year of such possession an amount equal to the annual land revenue and local rate payable for such land.

(7) Where the excess land of any person determined finally under Section 7 is found to be less than the land of that person which the Collector has taken possession of under this Section, the land which is in excess of the area so determined shall be returned by the Collector.

(8) Notwithstanding anything in any law for the time being in force, any order passed by a Collector under any of the preceding sub-sections shall be final and no court or any other authority shall entertain any suit, proceeding or appeal in respect of any such order passed or in respect of taking over and return of possession of land under any of the preceding sub-sections.

(9) For taking over possession of any land under any of the preceding sub-sections, the Collector may use such force as may be necessary.

(10) Any order passed by the Collector for taking over possession of any land under any of the preceding sub-sections shall not affect or prejudice in any manner; the determination of the excess land under the provisions of the Act.

(11) Any land of which possession is taken by the Collector may be temporarily for a period not exceeding one year at a time disposed of or utilised in the spirit of the provisions of Chapter III of this Act. Such temporary disposal shall not create any right, title and interest whatsoever in favour of any person.]¹

1. Substituted by Assam Act, IX of 1975.

Principle of
compensation.

12. Where any land acquired under section 8 of the Act, there shall be paid compensation which shall be determined by the Collector or any other officer authorised by the State Government in the manner and in accordance with the principles laid down below namely :—

(a)(1) Where the person from whom the excess land has been acquired held it as the owner thereof, the compensation (inclusive of the value of any tenancy right) shall be :—

(i) in case of fallow land an amount equal to 25 times the full rate of annual land-revenue payable for such land, and

(ii) in case of other land, inclusive of the value of trees, an amount equal to 50 times such annual land-revenue:

Provided that if the land is under occupation of a tenant, then the compensation shall be apportioned between the owner and the tenant, and the share of the owner shall be, if the tenant has acquired occupancy right, 15 times, and in other cases 20 times such annual land revenue.

(2) Where the person from whom the excess land has been acquired held it as a tenant thereon the compensation for his tenancy right shall be:—

(i) If he is an occupancy tenant, 10 times the full rate of annual land-revenue payable for the land when the land is fallow, and 35 times such annual land-revenue in all other cases ;

(ii) If he is not an occupancy tenant 5 times such annual land-revenue payable for the land when the land is fallow, and 30 times such annual land revenue in all other cases.

[(3) Where there is a sub-tenant in the excess land acquired, an amount equal to 50 per cent of the compensation payable under (1) or (2) above to the tenant under whom he holds shall be paid out of it to the sub-tenant.]¹

Explanation—Land which is not cultivated for 3 consecutive years immediately preceding the date of acquisition or which does not contain any tree, bamboo or thatch shall be regarded as fallow :

1. Inserted by Assam Act, XVII of 1957.

Provided that where the land is revenue free or assessed to land-revenue at a concessional rate or where it is not assessed to land-revenue under the provisions of the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) or of the Assam Land Revenue Re-assessment Act, 1936 (Assam Act VIII of 1936), the compensation shall be determined on the basis of annual land-revenue assessable under the provision of the afore-mentioned Acts on similar, full revenue paying land situated nearest to it

(b) Where there is any building or structure or crop on the land the owner thereof shall be given the option of removing it within the prescribed period and if he fails to do so within the said period, it shall be sold in public auction and the sale proceeds after deduction of the cost of auction, if any, shall be paid to him.

(c) For any improvement made on the land, an additional amount not exceeding twice the amount of compensation payable under clause (a) above for the land benefited by such improvement shall be payable to the owner or the tenant [or the sub-tenant]¹ as the case may be, at whose expense the improvement was made. In determining this amount, the following factors shall be taken into consideration, namely:—

- (i) enhancement of the value of the land due to the improvement;
- (ii) probable duration of the effect of the improvement;
- (iii) labour and capital spent on the improvement.

13 (a) The compensation may be paid in cash
The manner in one or more equal annual instalments within 5
of payment years from the date of acquisition:
of compen-
sation.

Provided that where the full amount of compensation is not paid within six months of the date of acquisition, interest at the rate $2\frac{1}{2}$ per cent per annum shall be payable on the unpaid balance of the compensation.

(b) (i) Where the land acquired is subject to a mortgage or charge, the creditors shall be paid out of the compensation money to the extent of the claim proved before the Collector or any other officer empowered in this behalf:

1. Inserted by Assam Act, XVII of 1957.

Provided that where the amount of total claim exceeds the compensation money, the creditors shall be paid proportionately in order of priority determined by him.

(ii) The creditors whose debts are secured by mortgage or charge on the land acquired shall, within 60 days from the date of notification under section 8, prefer claim in writing before the Collector who shall thereupon proceed with and dispose of the claim.

(iii) In case of dispute as to the person or persons who are entitled to be paid out of the compensation money, the amount shall be kept in deposit in a Government Treasury and the dispute shall be referred to the Civil Court of competent jurisdiction and the amount shall then be paid in terms of final decision of the Court.

Ad-interim
payment of
compensation.

14.(1) When the person to whom compensation is payable prays for payments of compensation pending investigation and final determination of the amount of compensation an ad-interim payment or compensation, not exceeding 25 per cent of the probable compensation, may be made after a preliminary enquiry on the execution by the claimant of an indemnity bond with one surety.

(2) Such ad-interim compensation shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted against it.

CHAPTER III

Disposal of excess land

Disposal of
excess land

15. Subject to the provisions of this Act and of this chapter in particular the excess land acquired under Section 8 of this Act shall be at the disposal of the State Government.

The manner
of disposal of
excess land.

16.(1) If there is any cultivating tenant in occupation of the land acquired from an owner then he shall [be given]¹ settlement of such land within a prescribed period on the following conditions, namely :—

- (a) that the area of land so settled, together with any other lands held by him or any member of his family either as tenant or as owner, shall not exceed in the aggregate the limit fixed under section 4 of this Act, and

- (b) that he shall pay to the State Government in one or more equal annual instalments not exceeding five an amount fixed by it but not exceeding the compensation payable by the State Government for acquisition thereof :

Provided that [***]¹ any amount which he is entitled to receive as compensation under the provisions of this Act, [shall be adjusted]² against an equal amount which [he]² is liable to pay under clause (b) above.

(2) On payment of the full amount under sub-section (1) above, the land shall be settled with him with the status of a land-holder as defined in the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886), [***]³

(3) Where the excess land is acquired from a tenant as such and not from the owner thereof, the State Government shall be entitled to settle it, on such terms as it may fix, with the sub-tenant, if any, who is in occupation of such land, subject to the limit under section 4, or if there be no sub-tenant so entitled, with any person coming within the purview of [***]⁴ sub-section (1) of section 17 below, with the same status as was held by the tenant from whom the land has been acquired.

Manner of disposal of land which is not settled under Section 16. 17 [(1) The State Government or any officer empowered by it in this behalf shall be entitled to settle any land which has not been disposed of under section 16 in the same manner as any other land which is at the disposal of the Government under section 12 of the Assam Land and Revenue Regulation, 1886.]⁵

Tenant who does not agree to take settle. (2) The State Government or the officer empowered in this behalf may, for the purpose of settling any land under sub-section (1) above, eject, if necessary, any person in unauthorised possession.

[(3) In making settlement under sub-section (1) of this Section preference shall be given as far as practicable to the following categories of person in the order of narration stated below:—

- (a) Landless cultivator who has been rendered homeless due to flood, erosion, or earthquake.
- (b) Landless cultivator.
- (c) Agricultural Farming Corporation as defined in the Assam Agricultural Farming Corporation Act, 1973.

Assam Act
VIII of
1973.

1. Deleted by the Assam Act No. VIII of 1971
2. Deleted & added by ibid
3. Words occurring after words "Regulation 1896"
4. Deleted by the Assam Act VIII of 1971
5. Substituted by ibid

Explanation—For the purpose of this Section the expression “Landless cultivator” shall mean a person who does not hold any land whether as owner or as tenant or as both exceeding 3 bighas and whose only means of livelihood is cultivation.]⁶

18. A tenant who is in occupation of any land acquired under section 8 but who does not take settlement of such land in the manner described in section 16 above, shall acquire no right, title and interest in such land and shall be liable to ejectment, without prejudice to any other action that may be taken under the relevant provisions of the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886), or any other law for the time being in force.

CHAPTER IV

Excess land under annual lease

Taking over
of excess
land which
is under
annual
lease.

19. (1) If, from the final statement prepared under section 7, it appears that any person [***]¹ holds any land under annual lease granted by the State Government, which, with or without the lands already held by him, [***]¹ exceeds in the aggregate the limit fixed under section 4 of this Act, then notwithstanding anything to the contrary in any laws or agreement, the Collector shall, after issue of three months' notice ending with the 31st day of March following, takeover the excess land under annual lease and may eject any person who may be in possession of such land, and may thereupon dispose of it in the manner of section 17.

(2) No compensation for the land itself shall be payable for taking it over under sub-section (1) above.

(3) Where there is any building or structure or crop on the land, the owner thereof shall be given the option of removing it within the prescribed period and if he does not do so, then the building, structure, or crop, as the case may be, shall be sold in public auction, and the sale proceeds, after deduction of the cost of auction, if any, shall be paid to him.

(4) If there are any fruit-trees, on the land, then an amount fixed by the Collector after considering the value, nature, condition and number of such trees, shall be payable as compensation thereof, but such amount shall not exceed 25 times the annual land-revenue payable for the land.

1. Deleted by Assam Act XXVII of 1960

6. Inserted by the Assam Act IX of 1975

CHAPTER V

Ceiling on future acquisition

20.(1) Notwithstanding anything to the contrary in any law, usage, contract or agreement, from and after the commencement of this Act, no person [***]¹ as owner or tenant shall acquire or possess by transfer, exchange, lease, agreement or settlement any land which, or without the lands already held by him or any member of his family, shall in the aggregate exceed the limit fixed under section 4 of this Act.

Explanation.—Transfer does not include (i) inheritance and;

(ii) bequest or gift to an heir.

(2) From and after the commencement of this Act, no document evidencing any transaction for acquisition or possession of any land by way of transfer, exchange, lease, agreement or settlement shall be registered, unless a declaration in writing and duly verified is made/filed by the transferee before the competent registering authority under the Indian Registration Act, 1908, about the total area of lands held or possessed by him or any member of his family as owner or tenant. Act XVI of 1908.

Provided that in case of any transaction which does not require registration, the aforesaid declaration shall be filed before the Collector or any officer authorised by him in this behalf.

(3) No registering authority shall register under the Indian Registration Act any document evidencing any transaction if, from the declaration made under sub-section (2) above, it appears that the transaction has been effected in contravention of the provision of sub-section (1).

21. No right, title and interest shall accrue in favour of the transferee in any land in excess of the limit fixed under section 4 of this Act by virtue of any transaction made in contravention of section 20 above, and as a penalty for such transaction the rights and interests of the transfer or in such excess land purported to be transferred by such transaction to the transferee shall be deemed to have been transferred to the Government; and the transferee, his assignee or any other person in occupation of the land on his behalf or through him shall be liable to be ejected in the manner prescribed by the Collector or any other officer authorised in this behalf.:
Penalty for contravention of Section 20.

Provided that nothing in this section shall effect the liability, if any, of the transferee for payment of consideration of such transaction:

Provided further that no suit or proceeding by the transferee shall lie in any court for recovery of the consideration for any such transaction.

Ceiling on future acquisition by inheritance.

22.(1) If, after the commencement of this Act, any person [***]⁴ as owner or tenant, acquires by inheritance or by bequest or gift from a person whom he is an heir any land which, with or without the lands already held by him [***]¹ exceeds in this aggregate the limit fixed under section 4 of this Act, then he shall within the prescribed period submit to the Collector a return in the manner of section 5 giving the particulars of all lands and selecting the land he desires to retain.

(2) If he fails to submit the return and select his lands within the prescribed period mentioned in sub-section (1), then the Collector may obtain the information and select the lands in the manner of section 6.

(3) The Collector shall then submit a statement to the Government in the manner of section 7.

The State Government shall then in the manner laid down in section 8 of this Act, acquire the excess land, and thereupon the provisions of sections 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 shall apply *mutatis mutandis*.

CHAPTER VI

Ceiling for resumption of lands from tenants for personal cultivation by the land-lord

Ceiling for resumption of land from tenants for personal cultivation by the land-lord,

23. Notwithstanding anything to the contrary in any law, usage or agreement, no landlord shall be entitled to terminate the tenancy of any person on the ground for his requiring the land for his personal cultivation except under the following circumstances, namely :—

[(a) if the aggregate area of lands in actual occupation of a tenant does not exceed 10 bighas, then he shall not be ejected therefrom, until he has been provided with land of equivalent value in the locality :

(b) if the aggregate area of lands in actual occupation of a tenant exceeds 10 bighas, then the tenant shall not be ejected from a minimum area of 10 bighas

1. Omitted by Assam Act XXVII of 1960.
2. Substituted by the Assam Act IX of 1975.
3. Substituted by the Assam Act XVII of 1957.
4. Deleted by Assam Act XXVII of 1960

as selected by him (tenant) until he has been provided with land of equivalent value in the locality, but the land-lord shall be entitled to resume for personal cultivation any area in excess of these 10 bighas, In no case however, the aggregate area of lands so resumed from all his tenants taken together along with any other land already held under personal cultivation by the landlord [***]¹ on the date of resumption, shall exceed an overall limit of 50 bighas]³:

(c) the right of resumption shall be exercisable by only those landlords whose income by cultivation of land is the principal source of income for their maintenance :

Provided that no tenancy of a tenant, who has acquired the right of occupancy under any law for the time being in force shall be terminated except under the provisions of that law :

[Provided further that if the landlord is a minor, or a widow or a person subject to any physical or mental disability, or a member of the Military, Naval or Air Forces of the Union, then it shall not be obligatory on him to leave a minimum area with the tenant under the provisions of clause (a) or (b) above;]

No ejection after the expiry of 5 years.

24. No tenant shall, after the expiry of a period of 5 years from the commencement of this Act, be ejected on the ground that the landlord requires the land for his personal cultivation under the provision of section 23 above:

Provided that if the land-lord is (a) a minor or (b) a widow, or (c) a person subject to any physical or mental disability, or (d) a member of the Military Naval or Air Forces of the Union, then the said period of 5 years shall commence (a) on attainment of majority by the minor under the Indian Majority Act (Act IX of 1875) or (b) on remarriage by the widow or (c) on cessation of the disability of the land-lord or (d) on discharge or retirement of the land-lord from the services of the Military, Naval or Air Forces of the Union.

Restoration of possession to tenants in certain circumstances.

25.(1) If a landlord who has ejected a tenant from any land-lord on the ground of his requiring such land for his personal cultivation, fails to cultivate the land personally within one year or sublets it to other within two years from the date of his taking over possession, then the ejected tenant shall be entitled to restoration of possession in the manner prescribed.

1. Added by the Assam Act No. XVII of 1957.

3. Substituted by the Assam Act IX of 1975.

(2) Notwithstanding anything to the contrary in any law or agreement, any tenant who has been ejected within two years next before the 12th day of November, 1955 on the ground of the land-lord requiring the land for his personal cultivation, but who would not have been liable to be so ejected, had the provisions of the sub-section (1) above been in force at that time, shall be entitled to restoration of possession as if the provisions aforementioned were then in force.

Ejected tenant to receive compensation for improvement done by him. 26.(1) Notwithstanding anything to the contrary in any law or contract, a tenant who is ejected under the provisions of section 23 of this Act, shall be entitled to receive compensation for any improvement made by him on the land from which he has been ejected.

(2) In determining compensation, the following matters shall be taken into consideration, namely:—

- (a) the enhancement of the value of the land due to the improvement,
- (b) probable duration of the effect of the improvement,
- (c) labour and capital spent by the tenant on the improvement,
- (d) any advantage allowed to the tenant by the landlord in consideration of the improvement.

Land lord to select the area for resumption and tenants of lands not selected for resumption for personal cultivation not liable to ejection. 27.(1) A landlord who wants to resume any land for personal cultivation under section 23 shall give notice to his tenant to that effect and thereupon the tenant shall select the area under his occupation which he is entitled to retain under the provisions of this Act, and shall inform the land lord in writing within 30 days of the service of the notice.

(2) The landlord may then, out of the area not so selected by the tenant, choose the area which he is entitled to resume and may terminate the tenancy thereof after giving the tenant not less than 60 day's notice in writing.

(3) If no information as required under sub-section (1) above is received by the landlord within 45 day's of the service of the notice, the landlord shall be entitled to select, in his discretion, the land for resumption under section 23, and to terminate the tenancy thereof after giving the tenant not less than 60 day's notice in writing.

(4) Notwithstanding anything to the contrary in any law or contract, no tenant of the land which has not been selected and demarcated for resumption for personal cultivation by the landlord under the sub-sections above and no tenant of the land which has been selected for resumption by the landlord but proceeding for ejection wherefrom has not been instituted within the period mentioned in section 24 of this Act, shall be ejected except on the grounds mentioned below and after giving at least 30 day's notice in writing—

- (a) that he has done any act which is destructive or permanently injurious to the land and failed to repair the damage within 90 days of the service of the notice given by the landlord; or
- (b) that he has failed to pay the rent lawfully due to the land-lord within 90 days of its becoming due; or
- (c) that he has kept the land fallow for two consecutive years without any reasonable ground.

CHAPTER VII

ESTABLISHMENT OF A LAND REFORMS BOARD

Notification for establishment of Land Reform Board. 28.(1) The State Government may, by notification in the official Gazette, establish a Land Reforms Board for the State of Assam.

[(2) The Board shall consist of six members, namely,—

- (a) two non-official members nominated by the State Government,
- (b) three officers of the State Government, namely:—
 - (i) the Commissioner of Plains Division,
 - (ii) the Secretary to the Government of Assam in the Revenue Department,
 - (iii) the land Reforms Officer who shall also be the Secretary to the Board.
- (c) a Chairman nominated by the State Government.]¹

1. Substituted by the Assam Act. No. XX of 1962.

(3) The members of the Board shall hold office for a period of three years from the date of notification mentioned in sub-section (1):

Provided that the State Government may extend the period by one year by a notification in the official Gazette.

Function of the Board. 29. It shall be duty of the Board—

- (1) to advise the State Government in :
 - (a) carrying out the provisions of this Act,
 - (b) formulating policies in matters relating to land reforms,
 - (c) formulating schemes of co-operative settlement of land and of co-operative farming societies,
- (2) to evaluate from time to time the progress and effect of land reforms, and
- (3) to perform such other functions as may be prescribed.

Rules of Procedure. 30. The Board may frame its own rules of procedure consistent with the provisions of this Act and the Rules made thereunder, and hold such enquiries as deemed necessary for the proper discharge of its functions.

CHAPTER VIII

Miscellaneous

Appeals 31. (1) Any person aggrieved by any order under section 12 or 13 may, within 30 days of the order, prefer an appeal to the District Judge.

(2) The decision of the District Judge, or the original order when no appeal is preferred, shall be final.

Bar to Jurisdiction. 32. Except as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Collector may enforce order. 33. If the Collector is opposed or impeded in taking possession of any land under the provision of the Act, he may use or cause to be used such force as may be necessary to eject any person from the land.

34. (1) Whoever contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under this Act or makes a declaration or statement or furnishes any information which is false and which he has reason to believe to be false, shall be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both. Penalties

“(2) Any person who fails to submit any return required to be submitted under sections 5 and 22 shall, on conviction, be punished with imprisonment which may extend to one year but which shall not be less than three months and shall also be liable to fine which may extend to one thousand rupees.”

Protection of action taken in good faith. 35. No suit or proceeding or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, or any order made thereunder.

Delegation of powers. 36. The State Government may, by notification, delegate any officer, or authority subordinate to it any of the powers conferred on it by the Act except the powers under section 8, 28 and 40, to be exercised subject to any restrictions and conditions as may be specified in the said notification.

Powers to order production of documents etc., 37. Subject to any conditions or restrictions that may be prescribed, the Collector may, for the purpose of this Act, require any person to produce any document, paper or register which is in his possession or under his control, or to furnish any information which is he may think necessary for the proper discharge of any duties under the provisions of this Act.

Officer holding enquiries to have powers of Civil Courts for enforcing attendance, 38. Any officer or authority holding an enquiry or hearing an appeal under this Act shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, in respect of— Act V of 1908

(a) enforcing attendance of any person and his examination on oath,

(b) compelling production of documents, and

(c) issue of commission.

Mode of Recovery of any amount under the Act. 39. Any sum payable to the Government under the provisions of this Act may be realised as an arrear of land revenue.

Power to make rules 40. (1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which any notice or order under this Act may be served or published;

(b) the manner in which the Collector shall exercise any of the powers under this Act ;

(c) the procedure and fees regarding appeal revision or any other petition under this Act

(d) the period within and the form in which the return has to be submitted under section 5;

(e) the agency through which the information is to be collected under section 6 ;

(f) the manner in which a copy of the draft statement shall be served on the person or persons concernd under sub-section (2) of section 7;

(g) the manner in which the notice is to be served under section 10 ;

(h) the period within which the tenant shall exercise option under section 16 for settlement of land with him ;

(i) the period within which the owner shall remove building, structure or crop under section 12 or 29 ;

(j) the period within which the return should be submitted under section 22;

[“41 (1) The Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1972, is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, any decision given, order made, anything done, any action taken or any proceedings commenced under any of the provisions of the Act so repealed and in force immediately before such repeal shall continue in force and shall be deemed to have been given, made, done, taken or commenced under the corresponding provisions of this Act"]¹

Power to remove difficulties

["42. If any difficulty arises in giving effect to any provision of the Assam Fixation of Ceiling on Land Holdings Act, 1956, the State Government may, as occasion requires, take any action not inconsistent with the provisions of the Act which may appear to them necessary for the purpose of removing the difficulty."]²

1. Inserted by the Assam Act IX of 1975
2. Inserted by the Assam Act IX of 1975

AGP.—730/76 (Law.)—4,000—4-6-76.