



REVENUE MANUAL

VOLUME - I



REVENUE DEPARTMENT
GOVERNMENT OF PONDICHERY

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FOREWORD

At the time the de-facto merger of the Union Territory of Pondicherry with the Indian Union in the year 1954, the land revenue administration as adopted by the French Regime was followed and the provisions of Code of Criminal Procedure, Indian Penal Code and many central legislations were extended to Pondicherry Union territory in 1963 after the de-jure transfer. Subsequently upon re-organisation of the Revenue Department on the lines of Revenue administration in Tamil Nadu, the Government implemented many administrative reforms in the District Administration encompassing various aspects defining the role of the Revenue Department. Presently, the functions of the Revenue administration are governed by more than 100 Acts/Rules which are essential for the Revenue officials to perform their duties entrusted to them.

Access to all the Acts, Rules, Notifications and Administrative Instructions etc., is limited due to voluminous nature of these enactments and their non-availability to serve the purpose in the right time. This has necessitated compilation of various enactments as a handy manual. The preparation of Revenue Manual, to be followed by some more volumes, will be of immense help and will go a long way in serving the needs of all the Officials and Staff of the Revenue Department.

Pondicherry
13.03.2003

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PREFACE

The origin of revenue administrative set up in this Union Territory dates back to the year 1826, when a Royal Ordinance was issued by the French Monarchy, regularising the enjoyment of landed properties, conferring ownership to the enjoyers and imposition of land tax and enunciating the collection of land tax procedures. During the erstwhile French regime, the department was known as Bureau de Contributions (Contributions Department) and was responsible for assessment and collection of taxes and control over the treasury till the year 1968. The land records which were prepared after 1887 and the field maps (Plan parcellaire), Matrice cadastrale, Tableau synoptique etc., were in vogue till the resurvey operations were completed in the year 1977, under the provisions of the Pondicherry Survey and Boundaries Act, 1967. After the De-jure transfer, the revenue district administration was re-organised in the year 1969.

Under the reorganised pattern, the four regions of the Union Territory of Pondicherry formed a unitary district and each region constituted a revenue sub-division. The villages were regrouped into viable units to suit the changed administrative set up. The revenue district administration was reorganised on the Tamil Nadu pattern, but is unique in nature as it is a blend of erstwhile French and British administrative set up and procedures. After the enactment of various Acts and Rules, especially in the land reforms sector / tenancy and implementation of umpteen number of welfare schemes, the functions of the revenue officials have become multifarious and complex. There is no official publication containing a collection of

the up to date copy of the Acts and Rules and notifications made or issued thereunder. In order to cater to the needs of the revenue officials who deal with more than 3 scores of Acts and Rules, both Central and Local, the need for a compilation of the various Acts, Rules and administrative guidelines / instructions / orders with upto date amendments which are in use in the day to day administration was a long felt one.

Though the Acts and Rules find place in the gazettes and stock files, these may not be easily accessible to all the revenue officials who in the day to day business have to refer to the various provisions. Hence the codification of these enactments has become the need of the hour. Unless the officials refer to an updated version of the rules and orders they may not be able to deliver the desired results. The Revenue Department took up the herculean task of compiling and bringing out the updated version of various statutory enactments and orders both Central and Local in few handy volumes a couple of years back.

This volume, first in the series, contains the primary Acts, Rules and orders which the revenue officials deal with in the day to day business. The remaining enactments are proposed to be brought out in some more volumes. Here, utmost care has been taken with regard to the incorporation of various amendments to the enactments.

The officials of the Central Archives and Romain Rolland Library and the Law Department, Pondicherry have been very helpful in obtaining the copies of the various enactments for this task.

Pondicherry
13.03.2003

G. RAGESH CHANDRA
JOINT SECRETARY (REVENUE)

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PART I

**THE PRESS AND REGISTRATION
OF BOOKS ACT, 1867**

(25 OF 1867)

Preamble:- Whereas it is expedient to provide for the regulation of printing-presses and of [news papers], for the preservation of [***] copies of every book and newspaper printed in India and for the registration of such books and newspapers: It is hereby enacted as

PART I

PRELIMINARY

Interpretation-clause

1. ¹ [(1)] In this Act, unless there shall be something repugnant in the subject or context,—

"Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed ² * * * ;

³ * *

⁴ ["editor" means the person who controls the selection of the manner that is published in a newspaper;]

⁵ * *

"Magistrate" means any person exercising the full powers of a ⁶ Magistrate, and includes a ⁷ Magistrate of police ⁸ * * *

¹ S.1 re-numbered as sub-section (1) thereof by Act 16 of 1965, s. 2 (w.e.f. 1-11-1965).

² The words "or lithographed" omitted by Act 55 of 1955, s. 4 (w.e.f. 1-7-1956).

³ Definition of "British India" rep. by the A.O. 1937, see now the definition in s. 3 (5) of the General Clauses Act, 1897(10 of 1897)

⁴ Ins. by Act 14 of 1922, s. 3 and Sch.I.

⁵ Definition of "India" omitted by Act 16 of 1965, s. 2 (w.e.f. 1-11-1965).

⁶ Now Magistrate of the first class, see the Code of Criminal Procedure, 1898 (5 of 1898).

⁷ Now Presidency Magistrate, see *ibid*.

⁸ The words "and a Justice of the Peace" rep. by Act 10 of 1890. s. 2.

¹ ["newspaper" means any printed periodical work containing public news or comments on public news;]

2*

*

*

³ ["paper" means any document, including a newspaper, other than a book;

"prescribed" means prescribed, by rules made by the Central Government under section 20A;

"Press Registrar" means the Registrar of newspapers for India appointed by the Central Government under section 19A and includes any other person appointed by the Central Government to perform all or any of the functions of the Press Registrar;

"printing" includes cyclostyling and printing by lithography;

"Register" means the Register of newspapers maintained under section 19B.]

⁴ [(2) Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law in force in that State.]

2. [Repeal of Act 11 of 1835]. Rep. by the Repealing Act, 1870 (14 of 1870). s 1 and Sch., Pt. II.

PART II

OF PRINTING-PRESSES AND NEWSPAPERS

Particulars to be printed on books and papers

3. Every book or paper printed within ⁵ [India] shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) ⁶ [the name] of the publisher, and the place of publication.

Keepers of printing-press to make declaration

4. ⁷ [(1)] No person shall, within 1 [India], keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before ⁸ [the District, Presidency or Sub-divisional Magistrate] within whose local jurisdiction such press may be:

I, A. B., declare that I have a press for printing at -----".

And this last blank shall be filled up with a true a precise description of the place where such press may be situate.

¹ Ins. by Act 14 of 1922, s. 3 and Sch. I.

² Paragraphs relating to the definitions of "Number" and "Gender" rep. by Act 10 of 1914 8.3 and SCR.II ; definition of Local Governemnt" rep. by the A.D. 1937 and the defination of) "States" ins. by the A.O. 1950 was rep. by Act 3 of 1951, s. 3 and Sch.

³ Ins. by Act 55 of 1955, s. 4 (w.e.f. 1-7-1956).

⁴ Ins. by Act 16 of 1956, s. 2 (w.e.f. 1-11-1965).

⁵ Subs. by Act 3 of 1951, s. 3 and Sch., for " the States".

⁶ Ins. by Act 12 of 1891, s. 2 and Sch. II, Pt. I.

⁷ S. 4 re-numbered as sub-section (1) of that section by Act 55 of 1955, s. 5 (w.e.f. 1-7-1956).

⁸ Subs. by Act 56 of 1951, s. 36, for "the Magistrate" (w.e.f. 1-2-1952).

¹ [(2) As often as the place where a press is kept is changed, a new declaration shall be necessary:

Provided that where the change is for a period not exceeding sixty days and the place where the press is kept after the change is within the local jurisdiction of the Magistrate referred to in sub-section (I), no new declaration shall be necessary if—

(a) a statement relating to the change is furnished to the said Magistrate within twenty-four hours thereof; and

(b) the keeper of the press continues to be the same.]

Rules as to publication of newspapers

5. No ²[newspaper] shall be published in ³ [India], except in conformity with the rules hereinafter laid down:

⁴[(1) Without prejudice to the provisions of section 3, every copy of every such newspaper shall contain the names of the owner and editor thereof printed clearly on such copy and also the date of its publication.]

⁵[(2)] The printer and the publisher of every such ⁶ [newspaper] shall appear ² [in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published ⁷[* * *], and shall make and subscribe, in duplicate, the following declaration:

"I, A B., declare, that I am the printer (or publisher, or printer and publisher) of the ⁵[newspaper] entitled _____ ⁸[and to be printed or published, or to be printed and published]. *as the case may be at _____*".

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.

⁹ [(2A) Every declaration under rule (2) shall specify the title of the newspaper, the language in which it is to be published and the periodicity of its publication and shall contain such other particulars as may be prescribed.]

¹⁰ [(2B) Where the printer or publisher of a newspaper making a declaration under rule (2) is not the owner thereof, the declaration shall specify the name of the owner and shall also be accompanied by an authority in writing from the owner authorising such person to make and subscribe such declaration.

(2C) A declaration in respect of a newspaper made under rule(2) and authenticated under

¹ Ins. by Act 55 of 1955, s. 5 (w.e.f. 1-7-1956).

² Subs. by Act 14 of 1922, s. 3 and Sch. I, for certain words.

⁵ Subs. by Act 3 of 1951, s. 3 and Sch., for " the States".

⁴ Subs. by Act 26 of 1960, s. 2 for rule (1) (w.e.f. 1-10-1960) which was in by Act 14 of 1922, 3 and Sch. I.

⁵ Rule (1) re-numbered as rule (2) by Act 14 of 1922, s. 3 and Sch. I.

⁶ Subs. by s. 3 and Sch. I, *ibid*, for "periodical work".

⁷ The words "or such printer or publisher resides," omitted by Act 26 of 1960, s. 2 (w.e.f 1-10-1960).

⁸ Subs. by Act 55 of 1955, s. 6, for certain words (w.e.f 1-7-1956).

⁹ Ins. by s. 6, *ibid*.

¹⁰ Ins. by Act 26 of 1960, s. 2 (w.e.f.) 1-10-1960.

section 6 shall be necessary before the newspaper can be published.

(2D) Where the title of any newspaper or its language or the periodicity of its publication is changed, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued.

(2E) As often as the ownership of a news paper is changed, a new declaration shall be necessary.]

¹ [(3) As often as the place of printing or publication is changed, a new declaration shall be necessary:

² [Provided that where the change is for a period not exceeding thirty days and the place of printing or publication after the change is within the local jurisdiction of the Magistrate referred to in rule (2), no new declaration shall be necessary if—

(a) a statement relating to the change is furnished to the said Magistrate within twenty-four hours thereof; and

(b) the printer or publisher or the printer and publisher of the newspaper continues to be the same.]

³ [(4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave India for a period exceeding ninety days or where such printer or publisher is by infirmity or otherwise rendered incapable of carrying out his duties for a period exceeding ninety days in circumstances not involving the vacation of his appointment, a new declaration shall be necessary.]

⁴ [(5) Every declaration made in respect of a newspaper shall be void, where the newspaper does not commence publication—

(a) within six weeks ⁵ [of the authentication of the declaration under section 6], in the case of newspaper to be published once a week or oftener and

(b) within three months ⁵ [of the authentication of the declaration under section 6], in the case of any other newspaper,

and in every such case, a new declaration shall be necessary before the newspaper can be published.

(6) Where, in any period of three months, any daily, tri-weekly, bi-weekly, weekly or fortnightly newspaper publishes issues the number of which is less than half of what should have been published in accordance with the declaration made in respect thereof, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued.

(7) Where any other newspaper has ceased publication for a period, exceeding twelve months, every declaration made in respect thereof shall cease to have effect, and a new declaration shall be necessary before the newspaper can be republished.

(8) Every existing declaration in respect of a newspaper shall be cancelled by the Magistrate before whom a new declaration is made and subscribed in respect of the same:]

¹ Rule (2) re-numbered as rule (3) by Act 14 of 1922, s. 3 and Sch. I.

² Ins. by Act 55 of 1955, s. 6 (w.e.f. 1-7-1956).

³ Subs. by Act 26 of 1960, s. 2 for rule (4) (w.e.f. 1-10-1960) which had been re-numbered for the original rule (3) by Act 14 of 1922, s. 3 and Sch. I.

⁴ Ins. by Act 55 of 1955, s. 6 (w.e.f. 1-7-1956).

⁵ Subs. by Act 26 of 1960, s. 2 for "of the declaration" (w.e.f. 1-10-1960).

¹ [Provided that no person ² [who does not ordinarily reside in India, or] who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper.]

Keepers of printing-presses and printers papers in and publishers of newspapers in Jammu and Kashmir to make and subscribe fresh declarations within specified period

³ [5A. (1) No person who has made and subscribed a declaration in respect of any press under section 4 of the Jammu and Kashmir State Press and Publications Act, S. 1989 shall keep the press in his possession for the printing of books or papers ⁴ [after 31st day of December, 1968, unless before the expiry of that date] he makes and subscribes a fresh declaration in respect of that press under section 4 of this Act.

(2) Every person who has subscribed to any declaration in respect of a newspaper under section 5 of the Jammu and Kashmir State Press and Publications Act, S. 1989 shall cease to be the editor, printer or publisher of the newspaper mentioned in such declaration ⁴ [after the 31st day of December, 1968, unless before the expiry of that date] he makes and subscribes a fresh declaration in respect of that newspaper under rule (2) of the rules laid down in section 5 of this Act.]

Authentication of declaration

6. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made:

⁵ [Provided that where any declaration is made and subscribed under section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same person, be so authenticated unless the Magistrate ⁶ [is, on inquiry from the Press Registrar, satisfied] that the newspaper proposed to be published does not bear a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State.]

Deposit

One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or ⁷ [other principal Civil Court of original jurisdiction for the place where] the said declaration shall have been made.

Inspection and supply of copies

¹ Ins. by Act 14 of 1922, s. 3 and Sch. I.

² Ins. by Act 26 of 1960, s. 2 (w.e.f. 1-10-1960).

³ Ins. by Act 16 of 1965, s. 3 (w.e.f. 1-11-1965).

⁴ Subs. by Act 30 of 1968, s. 2, for certain words (retrospectively).

⁵ Ins. by Act 55 of 1955, s. 7, (w.e.f. 1-7-1956).

⁶ Subs. by Act 26 of 1960, s. 3, for certain words (w.e.f. 1-10-1960).

⁷ Subs. by Act 10 of 1980, s. 3, for certain words.

The Officer-in-charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

¹ [A copy of the declaration attested by the official seal of the Magistrate, or a copy of the order refusing to authenticate the declaration, shall be forwarded as soon as possible to the person making and subscribing the declaration and also to the press Registrar.]

Office copy of declaration to be prima facie evidence

7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations,,² [or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor] shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration,²[or printed on such newspaper, as the case may be] that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every³ [newspaper] whereof the title shall correspond with the title of the⁴ [newspaper] mentioned in the declaration¹ [or the editor of every portion of that issue of the newspaper of which a copy is produced.]

New declaration by persons who have signed a declaration and subsequently ceased to be printers or publishers

8.⁵ [If any person has subscribed to any declaration in respect of a newspaper under section 5 and the declaration has been authenticated by a Magistrate under section 6 and subsequently that person ceases to be the printer or publisher of the newspaper mentioned in such declaration, he shall appear before any District, Presidency or Sub-divisional Magistrate, and make and subscribe in duplicate the following declaration:—

"I, A. B., declare that I have ceased to be the printer or publisher or printer and publisher of the newspaper entitled—————".]

Authentication and filing

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.

Inspection and supply of copies

¹ Subs. by Act 26 of 1960, s. 3, for the fourth paragraph (w.e.f. 1-10-1960) which was ins. by Act 55 of 1955, s. 7 (w.e.f. 1-17-1956).

² Ins. by Act 14, of 1922, s. 3 and Sch. I.

³ Subs. by s. 4 and Sch. I, *ibid.*, for "periodical work".

⁴ Subs. by S. 3 and Sch.I, *ibid.*, for "periodical work".

⁵ Subs. by Act 55 of 1955, s. 8, for the first paragraph (w.e.f. 1-7-1956).

The Officer-in-charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.

Putting copy in evidence

In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the ¹ [newspaper] therein mentioned.

² [A copy of the latter declaration attested by the official seal of the Magistrate shall be forwarded to the Press Registrar.]

Person whose name has been incorrectly published as editor may make a declaration before a magistrate.

³ [8A. If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period.]

Cancellation of declaration

⁴ [8B. If, on application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action proposed to be taken, hold an inquiry into the matter and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard, he is satisfied that—

(i) the newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Act or rules made thereunder; or

(ii) the newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State; or

(iii) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration; or

¹ Subs. by S. 3 and Sch. I, *ibid.*, for "periodical work".

² Ins. by s. 8, *ibid.* (w.e.f. 1-7-1956).

³ Ins. by Act 14, of 1922, s. 3 and Sch. I.

⁴ Ins. by Act 26 of 1960, s. 4 (w.e.f. 1-10-1960).

(iv) the declaration was made on false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper.

the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar.

Appeal

8C. (1) Any person aggrieved by an order of a Magistrate refusing to authenticate a declaration under section 6 or cancelling a declaration under section 8B may, within sixty days from the date on which such order is communicated to him, prefer an appeal to the Appellate Board to be called the Press and Registration Appellate Board consisting of a Chairman and another member to be appointed by the Central Government;

Provided that the Appellate Board may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal under this section, the Appellate Board may, after calling for the records from the Magistrate and after making such further inquiries as it thinks fit, confirm, modify or set aside the order appealed against.

(3) Subject to the provisions contained in sub-section (2), the Appellate Board may, by order, regulate its practice and procedure.

(4) The decision of the Appellate Board shall be final.]

¹ [PART III

DELIVERY OF BOOKS

Copies of books printed after commencement of Act to be delivered gratis to Government

9. Printed ² * * * copies of the whole of every book which shall be printed ² * * * in ³ [India] after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the books be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the State Government shall, by notification in the Official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

(a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,

(b) if within one calendar year from such day the State Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the State Government on the printer, another such copy, or two other such copies, as the State Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed ¹ * * *.

1 Subs. by Act 10 of 1890, s. 4. for the original Part III.

2 The words "or lithographed" omitted by Act 55 of 1955, s. 9 (w.e.f. 1-7-1956).

3 Subs. by Act 3 of 1951, s. 3 and Sch for "the States".

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the former part of this section shall apply to—

(i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(ii) any ² [newspaper] published in conformity with the rules laid down in section 5 of this Act.

Receipt for copies delivered under section 9

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Disposal of copies delivered under section 9

11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the State Government shall from time to time determine.

Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be ³ [transmitted to the Central Government.]

Copies of newspapers printed in India to be delivered gratis to Government

⁴ [11A. The printer of every newspaper in ⁵ [India] shall deliver at such place and to such officer as the State Government may, by notification in the Official Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.]

¹ The words "or lithographed" omitted by Act 55 of 1955, s. 9 (w.e.f. 1-7-1956).

² Subs. by Act 14 of 1922, s. 3 and Sch. I, for "periodical work".

³ Subs. by the A. O. 1948, for certain words.

⁴ Ins. by Act 14 of 1922, s. 3 and Sch. I.

⁵ Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

Copies of newspapers to be delivered Press Registrar

¹ [11B. Subject to any rules that may be made under this Act, the publisher of every newspaper in India shall deliver free of expense to the Press Registrar one copy of each issue of such newspaper as soon as it is published.]

PART IV

PENALTIES

Penalty for printing contrary to rule in section 3

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act, shall, on conviction before a Magistrate, be punishable by fine not exceeding ² [two thousand] rupees, or by simple imprisonment for a term not exceeding ³ [six months], or by both.

Penalty for keeping press without making declaration required by section 4

13. Whoever shall keep in his possession any such press as aforesaid, ⁴ [in contravention of any of the provisions contained in section 4 of this Act], shall, on conviction before a Magistrate, be punished by fine not exceeding ² [two thousand] rupees, or by simple imprisonment for a term not exceeding ³ [six months] or by both.

Punishment for making false statement

14. Any person who shall, in making ⁵ [any declaration or other statement] under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding ⁶ [two thousand] rupees, and imprisonment for a term not exceeding ⁷ [six months].

¹ Ins. by Act 55 of 1955, s. 10 (w.e.f. 1-7-1956).

² Subs. by Act 14 of 1922, s. 3 and Sch. I, for "five thousand".

³ Subs. by s. 3 and Sch. I, *ibid.*, for "two years".

⁴ Subs. by Act 55 of 1955, s. 11 for "without making such a declaration as is required by section 4 of this Act" (w.e.f. 1-7-1956)

⁵ Subs. by Act 55 of 1955, s. 12 for "any declaration" (w.e.f. 1-7-1956).

⁶ Subs. by Act 14 of 1922, s. 3 and Sch. I, for "five thousand".

⁷ Subs. by s. 3 and Sch. I, *ibid.*, for "two years".

Penalty for printing or publishing newspaper without conforming to rules

15. ¹ [(1)] Whoever shall ² [edit], print or publish any ³ [newspaper], without conforming to the rules hereinbefore laid down, or whoever shall ² [edit], print or publish, or shall cause to be ² [edited], printed or published, any ⁴ [newspaper], knowing that the said rules have not been observed with respect to ⁵ [that news paper], shall on conviction before a Magistrate, be punished with fine not exceeding ⁶ [two thousand] rupees, or imprisonment for a term not exceeding ⁷ [six months] or both.

⁸ [(2) Where an offence is committed in relation to a newspaper under sub-section (1), the Magistrate may, in addition to the punishment imposed under the said sub-section, also cancel the declaration in respect of the newspaper.]

Penalty for failure to make a declaration under section 8

⁹ [15A. If any person who has ceased to be a printer or publisher of any, newspaper fails or neglects to make a declaration in compliance with section 8, he shall, on conviction before a Magistrate, be punishable by fine not exceeding two hundred rupees.]

Penalty for not delivering books or not supplying printer with maps

¹⁰ [16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that sections, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

¹ S. 15 re-numbered as sub-section (1) of that section by Act 26 of 1960, s. 5 (w.e.f. 1-10-1960).

² Ins. by Act 14 of 1922, s. 3 and Sch. I.

³ Subs. by s. 3 and Sch. I, *ibid.*, for "such periodical work as is hereinbefore described".

⁴ Subs. by s. 3 and Sch. I, *ibid.*, for "such periodical work".

⁵ Subs. by s. 3 and Sch. I, *ibid.*, for "that work".

⁶ Ins. by Act 55 of 1955, s. 10 (w.e.f. 1-7-1956).

⁷ Subs. by Act 14 of 1922, s. 3 and Sch. I, for "five thousand".

⁸ Ins. by Act 26 of 1960, s. 5 (w.e.f. 1-10-1960).

⁹ Ins. by Act 55 of 1955, s. 13 (w.e.f. 1-7-1956).

¹⁰ Subs. by Act 10 of 1890, s. 5, for the former ss. 16 and 17.

Penalty for failure to supply copies of newspapers gratis to Government

¹ [16A. If any printer of any newspaper published in ² [India] neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default.]

Penalty for failure to supply copies of newspapers to Press Registrar

³ [16B. If any publisher of any newspaper published in India neglects to deliver copies of the same in compliance with section 11B, he shall, on the complaint of the Press Registrar, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, by fine which may extend to fifty rupees for every default.]

Recovery of forfeitures and disposal thereof and of fines

17. Any sum forfeited to the Government under ⁴ [section 16] may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorised by the ⁵ Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

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PART V

REGISTRATION OF BOOKS

Registration of memoranda of books

18. There shall be kept at such office, and by such officer as the State Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in ⁷ [India], wherein shall be registered a memorandum of every book which shall have been delivered ⁸ [pursuant to clause (a) of the first paragraph of section 9] of this Act. Such memorandum shall (so far as may be practicable contain the following particulars (that is to say):—

(1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language;

(2) the language in which the book is written;

¹ Ins. by Act 14 of 1922, S.3 and Sch.1.

² Subr. by Act3 of 1951, S.3 and Sch. for "the states".

³ Ins. by Act 55 of 1955, s. 14 (w.e.f. 1-7-1956).

⁴ Subs. by Act 11 of 1923, s. 2 and Sch. I, for "the last foregoing section".

⁵ See now the Code of Criminal Procedure, 1898 (5 of 1898).

⁶ The 2nd paragraph rep. by the A. O. 1937.

⁷ Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

⁸ Subs. by Act 10 of 1890, s. 6 for "pursuant to section 9".

- (3) the name of the author, translator, or editor of the book or any part thereof;
- (4) the subject;
- (5) the place of printing and the place of publication;
- (6) the name or firm of the printer and the name or firm of the publisher;
- (7) the date of issue from the press or of the publication;
- (8) the number of sheets, leaves or pages;
- (9) the size;
- (10) the first, second or other number of the edition;
- (11) the number of copies of which the edition consists;
- (12) whether the book is printed, ¹ [cyclostyled or lithographed];
- (13) the price at which the book is sold to the public; and
- (14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the ² [copy thereof pursuant to clause(a) of the first paragraph of section 9].
³ * * *

Publication of memoranda registered

19. The memoranda registered during each quarter in the said Catalogue shall be published in the Official Gazette, as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent ⁴ * * * to the Central Government ⁵ * * *

¹ Subs. by Act 55 of 1955, s. 15 for "or lithographed" (w.e.f. 1-7-1956).

² Subs. by Act 10 of 1890, s. 6, for "copies thereof in manner aforesaid".

³ Last sentence of s. 18 rep. by Act 3 of 1914, s. 15 and Sch. II.

⁴ The words "to the said Secretary of State, and" rep. by the A.O. 1948.

⁵ The word "respectively" omitted, *ibid.*

¹PART VA

REGISTRATION OF NEWSPAPERS

Appointment of Press Registrar and other officers

19 A Central Government may appoint a Registrar of newspapers for India and such officers under the general superintendence and control of the Press Registrar as may be necessary for the purpose of performing the functions assigned to them by or under this Act, and may by general or special order, provide for the distribution or allocation of functions to be performed by them under this Act.

Register of newspapers

19B. (1) The press Registrar shall maintain in the prescribed manner a Register of newspapers.

(2) The Register shall, as far as may be practicable, contain the following particulars about every newspaper published in India, namely:—

- (a) the title of the newspaper;
- (b) the language in which the newspaper is published;
- (c) periodicity of the publication of the newspaper;
- (d) the name of the editor, printer and publisher of the newspaper;
- (e) the place of printing and publication;
- (f) the average number of pages per week;
- (g) the number of days of publication in the year;
- (h) the average number of copies printed, the average number of copies sold to the public and the average number of copies distributed free to the public, the average being calculated with reference to such period as may be prescribed;
- (i) retail selling price per copy;
- (j) the names and addresses of the owners of the newspaper and such other particulars relating to ownership as may be prescribed.
- (k) any other particulars which may be prescribed.

(3) On receiving information from time to time about the aforesaid particulars, the Press Registrar shall cause relevant entries to be made in the Register and may make such necessary alterations or corrections therein as may be required for keeping the Register up-to-date.

¹ Part VA containing ss. 19A to 19L ins. by Act 55 of 1955, s. 16 (w.e.f. 1-7-1956)

Certificates of registration

19C. On receiving from the Magistrate under section 6 a copy of the declaration in respect of a newspaper¹ [and on the publication of such newspaper, the Press Registrar shall], as soon as practicable thereafter, issue a certificate of registration in respect of that newspaper to the publisher thereof.

Annual statement, etc., to be furnished by newspapers

19D. It shall be the duty of the publisher of every newspaper—

(a) to furnish to the Press Registrar an annual statement in respect of the newspaper at such time and containing such of the particulars referred to in sub-section (2) of section 19B as may be prescribed;

(b) to publish in the newspaper at such times and such of the particulars relating to the newspaper referred to in sub-section (2) of section 19B as may be specified in this behalf by the Press Registrar.

Returns and reports to be furnished by newspapers

19E. The publisher of every newspaper shall furnish to the Press Registrar such returns, statistics and other information with respect to any of the particulars referred to in sub-section (2) of section 19B as the Press Registrar may from time to time require.

Right of access to records and documents

19F. The Press Registrar or any gazetted officer authorised by him in writing in this behalf shall, for the purpose of the collection of any information relating to a newspaper under this Act, have access to any relevant record or document relating to the newspaper in the possession of the publisher thereof, and may enter at any reasonable time any premises where he believes such record or document to be and may inspect or take copies of the relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

Annual report

19G. The Press Registrar shall prepare, in such form and at such time each year as may be prescribed, an annual report containing a summary of the information obtained by him during the previous year in respect of the newspapers in India and giving an account of the working of such newspapers, and copies thereof shall be forwarded to the Central Government.

Furnishing of copies of extracts from Registrar

19H. On the application of any person for the supply of the copy of any extract from the Register and on payment of such fee as may be prescribed, the Press Registrar shall furnish such copy to the applicant in such form and manner as may be prescribed.

1. Subs. by Act 26 of 1960, & 6, for certain workds (w.e.f.1-10-1960)

19I. Subject to the provisions of this Act and regulations made thereunder, the Press Registrar may delegate all or any of his powers under this Act to any officer subordinate to him.

Press Registrar and other officers to be public servants

19J. The Press Registrar and all officers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Penalty for contravention of section 19D or section 19E, etc.

19K. If the publisher of any newspaper—

(a) refuses or neglects to comply with the provisions of section 19D or section 19E; or

1 * * *

(c) publishes in the newspaper in pursuance of clause (b) of section 19D any particulars relating to the newspaper which he has reason to believe to be false,

he shall be punishable with fine which may extend to five hundred rupees.

Penalty for improper disclosure information

19L. If any person engaged in connection with the collection of information under this Act wilfully discloses any information or the contents of any return given or furnished under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

PART VI

MISCELLANEOUS

Power to make rules

20. The State Government shall have power to make such rules ² [not inconsistent with the rules made by the Central Government under section 20A] as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules.

Publication

All such rules, and all repeals and alternations thereof, and additions thereto, shall be published in the Official Gazette.

¹C1. (b) omitted by Act 26 of 1960, s. 7 (w.e.f. 1-10-1960).

² Ins. by Act 55 of 1955, s. 17 (w.e.f. 1-17-1956).

Power of Central Government to make rules

¹ [20A. (1) The Central Government may, by notification in the Official Gazette, makes rules—

(a) prescribing the particulars which a declaration made and subscribed under section 5 may contain; ² [and the form and manner in which the names of the printer, publisher, owner and editor of a newspaper and the place of its printing and publication may be printed on every copy of such newspaper];

³ [(b) prescribing the manner in which copies of any declaration attested by the official seal of a Magistrate or copies of any order refusing to authenticate any declaration may be forwarded to the person making and subscribing the declaration and to the Press Registrar;]

(c) prescribing the manner in which copies of any newspaper may be sent to the Press Registrar under section 11B;

(d) prescribing the manner in which a Register may be maintained under section 19B and the particulars which it may contain;

(e) Prescribing the particulars which an annual statement to be furnished by the publisher of a newspaper to the Press Registrar may contain:

(f) prescribing the form and manner in which an annual statement under clause (a) of section 19D, or any returns, statistics or other information under section 19E, may be furnished to the Press Registrar;

(g) prescribing the fees for furnishing copies of extracts from the Register and the manner in which such copies may be furnished;

(h) prescribing the manner in which certificate of registration may be issued in respect of a newspaper;

(i) prescribing the form in which, and the time within which, annual reports may be prepared by the Press Registrar and forwarded to the Central Government.

⁴ [(2) Every rule made under section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]]

¹ Ins. by s. 18, *ibid.* (w.e.f. 1-7-1956).

² Ins. by Act 26 of 1960, S. 8 (w.e.f. 1-10-1960).

³ Subs. by s. 8, *ibid.*, for cl. (b) (w.e.f. 1-10-1960).

⁴ Subs. by Act 26 of 1960, s. 8, for sub-section (2) (w.e.f. 1-10-1960).

Rules made under this Act may provide that contravention thereof shall be punishable

¹ [20B. Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with fine which may extend to one hundred rupees.]

Power to exclude any class of books from operation of Act

21. ² [The State Government may, by notification in the Official Gazette], exclude any class of books ³ [or papers] from the operation of the whole or any part or parts of this Act;

⁴ [Provided that no such notification in respect of any class of newspapers shall be issued without consulting the Central Government.]

Extent

⁵ [22. This Act extends to the whole of India ⁶ * * * .]

23. [Commencement of Act.] Rep. by the Repealing Act, 1870 (14 of 1870), s. 1 and Sch., Pt. II.

¹ Ins. by Act 26 of 1960, s. 9 (w.e.f. 1-10-1960).

² Subs. by the A.O. 1937, for certain words.

³ Ins. by Act 11 of 1915. s. 2 and Sch. I.

⁴ Ins. by Act 26 of 1960, s. 10 (w.e.f.1-10-1960).

⁵ Ins. by Act 55 of 1955, s. 19. Original s. 22 was rep. by Act 10 of 1890, s. 7 (w.e.f. 1-7-1956).

⁶ The words "except the State of Jammu and Kashmir" omitted by Act 16 of 1965, s. 4 (w.e.f. 1-11-1965).

(THE) REVENUE RECOVERY ACT, 1890
(CENTRAL ACT)
(ACT 1 OF 1890)

(THE) REVENUE RECOVERY ACT, 1890
(CENTRAL ACT)
(ACT 1 OF 1890)

(14th February, 1890)

An Act to make better provision for recovering certain public demands.

Whereas it is expedient to make better provision for recovering certain public demands; it is hereby enacted as follows:-

1. Title and extent:- (1) This Act may be called THE REVENUE RECOVERY ACT, 1890.

(2) It extends to the whole of India except (the State of Jammu and Kashmir);

2. Definitions:- In this Act, unless there is something repugnant in the subject or context, -

(1) "district" includes a presidency - town;

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district; and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

3. Recovery of public demands by enforcement of process in other districts than those in which they become payable, - (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of Land revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the Schedule, stating:-

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due

(2) The certificate shall be signed by the Collector making it or by any officer to whom such Collector may, by provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

(4) Remedy available to person denying liability to pay amount recovered under last foregoing section. - (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate that person may if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, instituted a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situated and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

(4) This section shall apply if under this Act as in force as part of the law of Pakistan or Burma or under any other similar Act forming part of the law of Pakistan or Burma, proceedings are taken against a person in Pakistan or Burma, as the case may be, for the recovery of an amount stated in a certificate made by a Collector in any State to which this Act extends.

(5) Recovery by Collector of sums recoverable as arrears of revenue by other public officers or by local authorities. Whether any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector, of the district which the office of that officer or authority is situate shall on the request of the officer or authority, proceed to recover the sum as if it wherean arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount ot be recovered to the Collector of another district under the foregoing lprovisions of this Act, as if the sum, were payable to himself.

6. Property liable to sale under this ACT. - (1) When the Collector of a district receives a certificate under the Act, he may issue a proclamation prohibiting the transfer or charging of any immovable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing withdraw the proclamation, and it shall be deemed to be withdrwn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of ofthat amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or othwise, made after the issue of the proclamation and beofre the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the forgoing provisions of this section, when proceedings are taken against any immovable property under this Act for the recovery of an amount stated in a ceritificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interest.

(5) A proclamation under this section shall be made by beat of drum or other costumery method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

7. Saving of local laws relating to revenue, - Nothing in the foregoing sections shall be construed-

(a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-Revenue or of sums recoverable as arrears of land revenue, or

(b) to authorise the arrest of any person for the recovery of any tax payable to the corpora-tion, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. Recovery in India of certain public demands arising beyond India:- When this Act has been applied to any local area which is under the administration of the Central Government but which is not part of India an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in India.

9. Recovery in India of land revenues, ect., accruing in Burma, - The Central Government may direct that an arrear of land-revenue accruing in Burma or a sum recoverable in Burma as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in Burma may be recovered under this Act in India and thereupon such arrear or sum shall be so recoverable:

provided that the Central Government shall not give any such direction unless it is satisfied that the remedy available under section 4 of this Act in India is available under protest in India an arrear accruing in India underBurma law in Burma to a person paying under protest in India an arrear accruing in Burma.

(2) For recovering by virtue of this section any arrears of tax or penalty due under the enactments relating to income tax or super-tax in force in Burma, the Collector shall have such additional powers as he has in the case of India incometax and super-tax under the provision to section 46(2) of the Income-tax Act, 1922.

(3) Sub-sections (1) and (2) shall apply in relation to Pakistan as they apply in relation to Burma.

10. Duty of Collectors to remit money collected in certain cases. - Where a Collector receives a certificate under this Act from a Collector of another State or a Collector in Pakistan or Burma, he shall remit any sum recovered by him by virtue of that certificate to that Collector, after deducting his expenses in connection with the matter.

**THE SCHEDULE
CERTIFICATE**

[see section 3, sub-section (1)]

From

The Collector of

To

The Collector of

Dated ----- of 18-----

The sum of Rs. -----is payable on account of-----
by----- son of -----, resident of -----
-----, who is believed (to be at -----)(to have
property consisting of ----- at -----) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890 the said sum is recoverable by you as if it were an arrear of land revenue which had accrued in your district, and you are hereby desired so to recover it and to remit it to my office at.

A.B.
Collector of

THE GENERAL CLAUSES ACT, 1897

(Act No. 10 of 1897)

THE GENERAL CLAUSES ACT, 1897

(Act No. 10 of 1897)¹

[11th March, 1897]

An Act to consolidate and extend the General Clauses Acts, 1868 and 1887

Whereas it is expedient to consolidate and extend the General Clauses Acts, 1868 (I of 1868) and 1887 (I of 1887);

It is hereby enacted as follows :

Preliminary

1. **Short title.**— (1) This Act may be called the General Clauses Act 1897;² * * *

2 * * * * *

NOTE.— It has been enacted so as to avoid superfluity of language wherever it is possible to do so. [Kutoor Vengayil Rayarappan Nayanar Kutoor Vengayil Valia Madhavi Amma, A.I.R., 1950 P.C. 140.]

2. **Repeal.**— [Rep by the Repealing and Amending Act, 1903 (I of 1903), Sec. 4 and Sch. III.]

General Definitions

³ [3. Definitions.— In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

(1) "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (XLV of 1860);

(2) "act", used with reference to an offence or civil wrong, shall include a series of acts and words which refer to acts done, extend also to illegal omissions;

1. For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V.p. 38; for Report of the select Committee, see *ibid.*, p. 77, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 35, 40, 46 and 76.

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), sec. 3; in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), Sec. 2; in Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), Sec. 3, and Sch; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936) Sec. 3 and Sch.

The Act has been partially extended to Berar by the Berar Laws Act (4 of 1941). It has been extended to the new Provinces and merged States by the Merged States (Laws) Act, 1949 (59 of 1949) It has been amended in Assam by the Assam Commissioners Powers Distribution Act, 1939 (Assam Act 1 of 1939). This Act has been extended to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act, 1950. It is extended to the States merged in Bombay by Bombay Act 4 of 1950 and Madhya Pradesh Act 12 of 1950.

2. The word "and" in sub-section (1) and sub-section (2) rep. by the Repealing and Amending Act, 1914 (10 of 1914), sec. 3 and Sch. II.

3. Subs, by the A.O., 1950, as amended by C.O. 17, dated 5th June, 1950, for the section

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

(5) "British India" shall mean, as respects the period before the commencement of part III of the Government of India Act, 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor General of India or through any Governor or officer subordinate to the Governor General of India, and as respects any period after that date and before the date of the establishment of the dominion of India means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces, except that a reference to British India in an Indian law passed or made before the commencement of Part III of the Government of India Act, 1935, shall not include a reference to Berar;

(6) "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and where parts of those dominions are under both a Central and local Legislature all parts under the Central Legislature shall, for the purpose of this definition, be deemed to be one British possession ;

(7) "Central Act" shall mean an Act of Parliament, and shall include—

(a) an Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of the Constitution, and

(b) an Act made before such commencement by the Governor General in Council or the Governor General, acting in a legislative capacity;

(8) "Central Government" shall,—

(a) in relation to anything done before the commencement of the Constitution, mean the Governor General or the Governor General in Council, as the case may be; and shall include,

(i) in relation to functions entrusted under sub-section (1) of Sec. 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section ; and

(ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of Sec. 94 of the said Act ; and

(b) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include,

(i) in relation to functions entrusted under Cl. (1) of Art. 258 of the Constitution to the Government of a State, the State Government acting within the scope of the authority given to it under that clause; ¹ * * *

(ii) in relation to the administration of a Part C State ² [before the commencement of the Constitution (Seventh Amendment) Act, 1956], the Chief Commissioner or the Lieutenant Governor or the Government of a neighbouring State or other authority acting within the scope of the authority given to him or it under Art. 239, or Art. 243 of the Constitution, as the case may be; ³ [and

1. The word "and" omitted by the Adaptation of Laws (No. 1) Order, 1956.

2. Ins. by the adaptation of laws (No:1) order, 1956

(iii) in relation to the administration of a Union territory, the administrator thereof acting within the scope of the authority given to him under Art. 239 of the Constitution;]

(9) "chapter" shall mean a chapter of the Act or Regulation in which the word occurs;

(10) "Chief Controlling Revenue Authority" or "Chief Revenue Authority" shall mean—

(a) in a State where there is a Board of Revenue, that Board;

(b) in a State where there is a Revenue Commissioner, that Commissioner;

(c) in Punjab, the Financial Commissioner ; and

(d) elsewhere, such authority as, in relation to matters enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and in relation to other matters, the State Government, may by notification in the official Gazette, appoint ;

(11) "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer-in-charge of the revenue administration of a district;

(12) "Colony"—

(a) in any Central Act passed after the commencement of Part III of the Government of India Act, 1935, shall mean any part of His Majesty's dominions exclusive of the British Islands, the dominions of India and Pakistan (and before the establishment of those dominions British India), any dominion as defined in the Statute of Westminster, 1931, any Province or State forming part of any of the said dominions, and British Burma ;and

(b) in any Central Act passed before the commencement of Part III of the said Act, mean any part of His Majesty's dominions exclusive of the British Islands and of British India ; and in either case where parts of those dominions are under both a Central and local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony ;

(13) "commencement" used with reference to an Act or Regulation, shall mean the day on which the Act or regulation comes into force;

(14) "Commissioner" shall mean the chief officer-in-charge of the revenue-administration of a division;

(15) "Constitution" shall mean the Constitution of India;

(16) "Consular Officer" shall include Consul-General, Consul, Vice-Consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of Consul-General, Consul, Vice-Consul or consular agent;

(17) "District Judge of" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(18) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter;

(19) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the

Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid;

(20) "father", in the case of any one whose personal law permits adoption, shall include an adoptive father;

(21) "financial year" shall mean the year commencing on the first day of April;

(22) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;

(23) "Government" or "the Government" shall include both the Central Government and any State Government;

(24) "Government securities" shall mean securities of the Central Government or of any State Government, but in any Act or Regulation made before the commencement of the Constitution shall not include securities of the Government of any Part B State;

(25) "High Court", used with reference to civil proceedings, shall mean the highest Civil Court of appeal (not including the Supreme Court) in the part of India in which the Act or Regulation containing the expression operates;

(26) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to any thing attached to the earth;

(27) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

(28) "India" shall mean,—

(a) as respects any period before the establishment of the dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian ruler, and the tribal areas;

(b) as respects any period after the establishment of the dominion of India and before the commencement of the Constitution, all territories for the time being included in that dominion ; and

(c) as respects any period after the commencement of the Constitution, all territories for the time being comprised in the territories of India;

(29) "Indian law" shall mean any Act, Ordinance, Regulation, rule, order, bye-law or other instrument which before the commencement of the Constitution has the force of law in any Province of India or part thereof, or thereafter has the force of law in any Part A State or Part C State or part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act;

(30) " Indian State" shall mean any territory which the Central Government recognised as such a State before the commencement of the Constitution whether described as a State, an estate, a *jagir* or otherwise;

(31) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(32) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force;

(33) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship;

(34) "merged territories" shall mean the territories which by virtue of an order made under Sec. 290-A of the Government of India Act, 1935, were immediately before the commencement of the Constitution being administered as if they formed part of a Governor's Province or as if they were a Chief Commissioner's Province;

(35) "month" shall mean a month reckoned according to the British calendar;

(36) "moveable property" shall mean property of every description, except immoveable property;

(37) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(38) "offence" shall mean any act or omission made punishable by any law for the time being in force;

(39) "official Gazette" or "Gazette" shall mean the *Gazette of India* or the official Gazette of a State;

(40) "Part" shall mean a part of the Act or Regulation in which the word occurs;

(41) "Part A State" shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, ¹[as] in force before the Constitution (Seventh Amendment) Act, 1956, "Part B State" shall mean a State for the time being specified in Part B of that Schedule and "Part C State" shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of Art. 243 of the Constitution;

(42) "person" shall include any company or association or body of individuals' whether incorporated or not;

(43) "Political Agent" shall mean,-

(a) in relation to any territory outside India, the Principal Officer, by whatever name called, representing the Central Government in such territory; and

(b) in relation to any territory within India to which the Act or Regulation containing the expression does not extend, any officer appointed by the Central Government to exercise all or any of the powers of a Political Agent under that Act or Regulation;

(44) "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be;

(45) "Province" shall mean a Presidency, a Governor's Province, a Lieutenant-Governor's Province or a Chief Commissioner's Province;

(46) "Provincial Act" shall mean an Act made by the Governor in Council, Lieutenant-Governor in Council or Chief Commissioner in Council of a Province under any of the Indian Councils Acts or the Government of India Act, 1915, or an Act made by the local Legislature or the Governor of a Province under the Government of India Act or an Act made by the Provincial Legislature or Governor of a Province or the Coorg Legislative Council under the Government of India Act, 1935;

(47) "Provincial Government" shall mean, as respects anything done before the com-

1. Ins. by the Adaption of Laws (No. 1) Order. 1956.

mencement of the Constitution, the authority or person authorised at the relevant date to administer executive government in the Province in question;

(48) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code;

(49) "registered", used with reference to a document, shall mean registered in ¹ [India] under the law for the time being in force for the registration of documents;

(50) "Regulation" shall mean a Regulation made by the President ² [under Art. 240 of the Constitution and shall include a Regulation made by the President under Art. 243 thereto and] a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935;

(51) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;

(52) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs;

(53) "scheduled district" shall mean a "scheduled district" as defined in the Scheduled Districts Act, 1874,

(54) "section" shall mean a section of the Act or Regulation in which the word occurs;

(55) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars;

(56) "sign" with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;

(57) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;

³ [(58) "State",-

(a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and

(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory ;]

(59) "State Act" shall mean an Act passed by the Legislature of a State established or continued by the Constitution;

(60) "State Government",-

(a) as respects anything done before the commencement of the Constitution shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorised at the relevant date to exercise executive government in the corresponding acceding State, and in a Part C State, the Central Government; ⁴ * * *

1. Subs. by *ibid.*, for "a Part A State or a Part C State".

2. Subs. by the Adaptation of Laws (No. 1) Order, 1956, for "under Art. 243 of the Constitution, and shall include"

3. Subs. by *ibid.*, for the former Cl. (58).

4. The work "and" omitted by *ibid.*

(b) as respects anything done ¹ [after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956] shall mean, in a Part C State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

² [(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government;

and shall, in relation to functions entrusted under Art. 258-A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article;

(61) "sub-section" shall mean a sub-section of the section in which the word occurs;

(62) "swear" with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed so affirm or declare instead of swearing;

⁴ [(62-A) "Union territory" shall mean any Union territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule;]

(63) "vessel" shall include any ship or boat or any other description of vessel used in navigation;

(64) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

(65) expressions referring to "writing" shall be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and

(66) "year" shall mean a year reckoned according to the British calendar.

NOTE.— These definitions are applicable only if there is nothing repugnant in the subject or context. [Chandra Shekhar v. Sri Thakurji Maharaj, A.I.R. 1935 All. 612.]

4. Application of foregoing definitions to previous enactments.— (1) The definition in Sec. 4 of the following words and expressions, that is to say, "affidavit", "barrister" ⁴ * * * "District Judge", "father", ⁴ * * * ⁵ * * * ⁴ * * * "immoveable property", "imprisonment", ⁴ * * * "Magistrate", "month", "moveable property", "oath", "person", "section", "son", "swear", "will", and "year" apply also, unless there is anything repugnant in the subject or context, to all ⁶ [Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet", "chapter", "commencement", "financial year", "local authority", "master", "offence", "part", "public nuisance", "registered", "schedule", "ship", "sign", "sub-section" and "writing" apply also, unless there is anything repugnant in the subject or context, to all ¹ [Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

1. Subs. by the Adaptation of Laws (No.1) Order, 1956, for "or to be done after the commencement of the Constitution".

2. Ins. by *ibid.*.

3. The words "and" omitted by *ibid.*

4. The words "British India", "Government of India", "High Court" and "Local Government" omitted by the A.O., 1937.

5. The words "Her Majesty" or "the Queen" rep. by the Repealing and Amending Act, 1919 (18 of 1919), Sec. 3 and Sch. II.

6. Subs. by the A.O., 1937, for "Acts of the Governor General in Council".

¹ [4-A. Application of certain definitions to Indian laws.—(1) The definitions in Sec. 3 of the expressions "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities", "High Court", "India", "Indian law", "Indian State", "merged territories", "official Gazette", "Part A State", "Part B State", "Part C State", "Provincial Government", "State" and "State Government" shall apply, unless there is anything repugnant in the subject or context, to all Indian laws.

(2) In any Indian law, references, by whatever form of words, to revenues of the Central Government or of any State Government shall, on and from the first day of April, 1951, be construed as references to the Consolidated Fund of India or the Consolidated Fund of the State, as the case may be.]

NOTE.— There is no definition of the expression "the Government" which applies to State laws. [Rampratap Jaidayal v. Dominion of India, A.I.R. 1953 Bom. 170.]

General Rules of Construction

5. Coming into operation of enactments.— ² [(1) Where any Central Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent,-

(a) in the case of a Central Act made before the commencement of the Constitution, of the Governor-General, and

(b) in the case of an Act of Parliament, of the President.]

3 * * * * *

(3) Unless the contrary is expressed a ⁴ [Central Act] or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

5-A. Coming into operation of Governor General's Act.— [Rep. by A. O., 1947.]

6. Effect of repeal.— Where this Act, or any ⁴ [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

1. Subs. by the A.O., 1950, for the former section.

2. Subs. *ibid.*, for the former sub-section.

3. Sub-section (2) omitted by the A.O., 1950.

4. Subs. by the A.O., 1937, for "Act of the Governor General in Council".

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

NOTE.— If this section is out of way, there is no doubt that Parliament should not be credited with the intention of not providing for appeals and revisions, etc. against the averment order under the Income-tax Act, 1922. [Kalawati Devi v. Commissioner of Income-tax, A.I.R. 1968 S C, 162 at p. 168.]

¹ **[6-A. Repeal of Act making textual amendment in Act or Regulation.]**— Where any ¹ [Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any ¹[Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter then, unless a different intention appears, the substitution of any matter, then unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

NOTE.— The repeal of an amending Act does not have the effect of destroying the amendment. [Shree Gopal Paper Mills Ltd., v. Ram Labhaya Mal, A.I.R, 1960 Punj. 375.]

7. Revival of repealed enactments.— (1) In any ² [Central Act] or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all ² [Central Acts] ,made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

8. Construction of references to repealed enactments.— ³ [(1)] Where this Act, or any ² [Central Act] or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification any provision of a former enactment, the references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

³ [(2) ⁴ [Where before the fifteenth day of August, 1947, any Act of Parliament of the United Kingdom repealed and re-enacted], with or without modification, any provision of a former enactment, then references in any ² [Central Act] or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.]

9. Commencement and termination of time.— (1) In any ² [Central Act] or Regulation made after the commencement of this Act, it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all ² [Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

1. Ins. by General Clauses (Amendment) Act, 1936 (19 of 1936). Sec.2.

2. Subs. by the A.O., 1937 for "Act of the Governor General in Council".

3. The Original Sec. 8 was renumbered as sub-section (1) of that section and Sub-section (2) ins, by the Repealing and Amending Act, 1919 (18 of 1919), Sec. 2 and Sch. I.

4. Subs. by the A.O., 1950, for "where any Act of Parliament repeals and reenacts.

10. Computation of time.— (1) Where, by any ¹ [Central Act] or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the ⁴ [Indian Limitation Act, 1877 (15 of 1877)] applies.

(2) This section applies also to all ¹ [Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

11. Measurement of distances.— In the measurement of any distance for the purposes of any ¹ [Central Act] or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on horizontal plane.

12. Duty to be taken pro rata in enactments.— Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

13. Gender and number.— In all ¹ [Central Acts] and Regulations, unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

NOTE.— Words in the singular shall include the plural and vice versa. Vanguard Fire and General Insurance, Co. Ltd., Madras v. Messrs. Fraser and Ross, A.I.R. 1960 S. C. 971.

13-A. References to the Sovereign.—[Rep. by the A. O., 1950.]

Powers and Functionaries

14. Powers conferred to be exercisable from time to time.— (1) Where, by any ² [Central Act] or Regulation made after the commencement of this Act, any power is conferred ³ [* * *] then, ⁵[unless a different intention appears], that power may be exercised from time to time as occasion requires.

(2) This section applies also to all ¹ [Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

15. Power to appoint, to include power to appoint ex officio.— Where, by any ² [Central Act] or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

1. Subs. by the A.O., 1937 for "Act of the Governor General in Council".

2. Subs. ibid., for "Act of the Governor General in Council".

3. The words "on the Government" omitted by the Repealing and Amending Act, 1919 (18 of 1919), Sec.2 and Sch.I.

4. See now the Indian Limitation Act, 1908 (9 of 1908)

5. Ins. Ibid

16. Power to appoint, to include power to suspend or dismiss.— Where, by any ²[Central Act] or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having ⁵ [for the time being] power to make the appointment shall also have power to suspend or dismiss any person appointed ⁶ [whether by itself or any other authority] in exercise of that power.

17. Substitution of functionaries.— (1) In any ² [Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all ¹ [Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

18. Successors.— (1) In any ¹ [Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all ² [Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

19. Official chiefs and subordinates:- (1) In any ¹[Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior

(2). This section applies also to all ²[Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887,

Provisions as to Orders, Rules, etc. made under Enactments

20. Construction of orders, etc. issued under enactments.—Where, by any ¹ [Central Act] or Regulation, a power to issue any ³ notification, order, scheme, rule, form, or bye-law is conferred, then expressions used in the ³ [notification,] order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

NOTE.-This section provides that where a Central Act empowers making rules, the expression used, shall have same meaning, if made after the commencement as in the Central Act, unless there is anything repugnant in the subject or context. [Abdul Husain Tayabali v. State of Gujarati, A.I.R. 1968 S. C. 432 at p. 436.]

21. Power to make, to include power to add to, amend, vary or rescind orders, rules or bye-laws.—Where, by any ¹ [Central Act] or Regulation, a power to ⁴ [issue notification], orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any ³ [notifications], orders, rules, or bye-laws so ⁷ [issued].

1. Subs. by the A.O., 1937 for "Act of the Governor General in Council".
2. Subs. *ibid.*, for "Acts of the Governor General in Council".
3. Ins. by the Amending Act, 1903 (1 of 1903), Sec. 3 and Sch.II.
4. Subs. *ibid.*, for make
5. Ins. by the Repealing and Amending Act, 1928 (18 of 1928), Sec.2 and Sch.I.
6. Subs. *ibid.*, for "by it"
7. Subs. *ibid.*, for made

NOTE.-The section embodies rules of construction and there is no bar to adopt it in so far it is not inconsistent with the Act and is not likely to defeat its purpose.

22. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.— Where, by any ¹ [Central Act] or Regulation which is not come into force immediately on the passing thereof a power is conferred to make rules or bye-laws or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

23. Provisions applicable to making of rules or bye-laws after previous publication.— Where, by any ¹ [Central Act] or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:

(1) The authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires in such manner as the ² [Government concerned] prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority, also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the ³ [official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

24. Continuation of orders, etc. issued under enactments repealed and re-enacted.— Where any ¹ [Central Act] or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any ⁴ [appointment, notification], order, scheme, rule, form or bye-law, ⁴ [made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been ⁴ [made or] issued under the provisions so re-enacted, unless and until it is superseded by any ⁴ [appointment, notification], order, scheme, rule, form or bye-law ⁴ [made or]

1. Subs. by the A.O., 1937, for "Act of the Governor General in Council".

2. Subs. by the A.O., 1950, for "Central Government or the Provincial Government".

3. Subs. by the A.O., 1937, for "Gazettee"

4. Ins. by the Amending Act, 1903 (1 of 1903), Sec. 3 and Sch.II.

issued under the provisions so re-enacted ¹ [and when any ² [Central Act] or Regulation which by a notification under Sec. 5 or 5-A of the ³ scheduled Districts Act, 1874 (14 of 1874) or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section.]

Miscellaneous

25. Recovery of fines.—Sections 63 to 70 of the Indian Penal Code (45 of 1860) and the provisions of the ⁴ Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law unless the Act, Regulation, rule, or bye law contains an express provision to the contrary.

26. Provision as to offences punishable under two or more enactments.—Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

NOTE.—The prohibition is against a person being punished twice for the same offence. The prohibition is not against punishment more than once for different offences.

27. Meaning of service by post.— Where any ² [Central Act] or Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and unless the contrary is provided to have been effected at the time at which the letter would be delivered in the ordinary course of post.

28. Citation of enactments.— (1) In any ² [Central Act] or Regulation and in any rule, bye-law, instrument or document, made under, or with reference to, any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any ² [Central Act] or Regulation made after the commencement of this Act a description or citation of a portion of another enactment shall, unless a different intention appears be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29. Saving for previous enactment, rules and bye-laws.— The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the

1. Ins. by the Second Repealing and Amending Act, 1914 (17 of 1914), Sec.2, and Sch.I.

2. Subs. by the A.O., 1937, for "Act of the Governor General in Council".

3. Rep. by the A.O., 1937.

4. See the code of Criminal Procedure, 1898 (5 of 1898), Sec. 386 et seq.

commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an act, Regulation, rule or bye-law made after the commencement of this Act.

¹**[30. Application of Act to Ordinances.**—In this Act the expression ² "[Central Act]" wherever it occurs, except in Sec. 5, and the word "Act" in ³ [Cls. (9), (13), (25), (40), (43), (52), and (54)] of Sec. 3 and in Sec. 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under Sec. 23 of the Indian Councils Act, 1861 ⁴[or Sec. 72 of the Government of India Act, 1915], (24 & 25 Vict., c. 67) ⁵ [or Sec. 42 ⁶ * * * * * of the Government of India Act, 1935] (5 and 6 Geo. 5, c. 61) ⁷ [and an Ordinance promulgated by the President under Art. 123 of the Constitution] (26 Geo. 5, Ch. 2).

30-A. ⁸ **[Application of Act to Acts made by the Governor-General.]**—*Rep. by the A. O., 1937.*]

31. ⁹ **[Construction of references to Local Government of a Province.]**—*[Rep. by the A. O., 1937.]*

THE SCHEDULE—*[Enactments repealed].*—*[Rep. by the Amending Act, 1903 (1 of 1903), Sec. 4 and Sch. III.]*

1. Ins. by the Second Repealing and Amending Act, 1914 (17 of 1914), sec. 2 and Sch. I.

2. Subs. by the A.O., 1937, for "Act of the Governor Gnereal in Council".

3. Subs. by the A. O., 1950, for "cls. (9), (12), (38), (48) and (50)".

4. Ins by the Repealing and Amending Act, 1917 (24 of 1917), Sec, 2 and Sch. I.

5. Ins. by the A.O., 1937.

6. The words "or Sec. 43" omitted by the A.O., 1947.

7. Added by the A.O., 1950.

8. This section was ins. by the Repealing and Amending Act, 1923 (11 of 1923), Sec.2 and Sch.I.

9. This section was ins. by the Repealing and Amending Act, 1920 (31 of 1920), Sec. 2 and Sch.I.

**THE PROTECTION OF CIVIL RIGHTS
ACT, 1955**

(Act No.22 of 1955)

THE PROTECTION OF CIVIL RIGHTS ACT, 1955

(Act No.22 of 1955)

[8th May, 1955]

*An Act to prescribe punishment for the ¹[preaching and practice of "untouchability"]
for the enforcement of any disability arising therefrom and for matters
connected therewith*

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:

1. Short title, extent and commencement.— (1) This Act may be called ²[the Protection of Civil Rights Act], 1955.

(2) It extends ³to the whole of India.

(3) It shall come into force on such date, ⁴as the Central Government may, by notification in the Official Gazette, appoint.

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

⁵[(a) "civil rights" means any right accruing to a person by reason of the abolition of "untouchability" by Art.17 of the Constitution;]

⁶[(aa) "hotel" includes a refreshment room, a boarding house, a lodging house, a coffee house and a cafe;]

⁷[(b) "place" includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel;]

(c) "place of public entertainment" includes any place to which the public are admitted and in which an entertainment is provided or held.

Explanation.—"Entertainment" includes any exhibition, performance, game, sport and any other form of amusement;

(d) "place of public worship" means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to , or is used generally by, persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; ⁸[and includes—

1. Subs. by Act 106 of 1976, Sec. 2 for "practice of untouchability" (w.e.f. 19th November, 1976).

2. Subs. by Act 106 of 1976, Sec. 3, for "the Untouchability (Offences) Act" (w.e.f. 19th November, 1976).

3. Extended to Goa, Daman and Diu with modification by Reg. 12 of 1962, Sec. 3 and Schedule to Dadra and Nagar Haveli by Reg. 6 of 1963, Sec. 2 and Sch. 1 (w.e.f. 1st July, 1965) and to Pondicherry by Reg. 7 of 1963, Sec. 3 and Sch. I (w.e.f. 1st October, 1963).

4. 1st June, 1955, vide Notifn. No. S.R.O. 1109, dated 23rd May, 1955, vide Gazette of India, Extraordinary, Pt. II, Sec. 3p. 1971.

5. Ins. by Act 106 of 1976, Sec. 4 (w.e.f. 19th November, 1976).

6. Relettered as Cl. (a) by Sec. 4, *ibid.* (w.e.f. 19th November, 1976).

7. Subs. by Sec. 4, *ibid.* for Cl.(b) (w.e.f. 19th November, 1976).

8. Subs. by *ibid.* for certain words (w.e.f. 19th November, 1976).

(i) all lands subsidiary shrines appurtenant or attached to any such place;

(ii) a privately owned place or worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and;

(iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;]

¹[(da) "prescribed" means prescribed by rules made under this Act;

(db) "scheduled castes" has to meaning assigned to it in Cl.24 of Art. 366 of the Constitution]¹

(e) "shop" means any premises where goods are sold either wholesale or by retail or both wholesale and by retail ²[and includes—

(i) any place from where goods are sold by a hawker or vendor or from a mobile van or cart,

(ii) a laundry and a hair-cutting saloon,

(iii) any other place where services are rendered to customers]²

3. Punishment for enforcing religious disabilities.—Whoever on the ground of "untouchability" prevents any person,—

(a) from entering any place of public worship which is open to other persons professing the same religion ³[* * *]³ or any section thereof, as such person; or

(b) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or watercourse ⁴[river or lake or bathing at any *ghat* of such tank, watercourse, river or lake]⁴ in the same manner and to the same extent as is permissible to the other persons professing the same religion ³[* * *]³ or any section thereof, as such person;

⁵[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than hundred rupees and not more than five hundred rupees]⁵.

Explanation.—For the purposes of this section and Sec.4 persons professing the Buddhist, Sikh or Jaina religion or person professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahma, Prathana, Arya Samaj and the Swaminarayan. Sampraday shall be deemed to be Hindus.

4. Punishment for enforcing social disabilities.—Whoever on the ground of "untouchability" enforces against any person any disability with regard to—

1. Ins. by Act 106 of 1976, Sec. 4 (w.e.f. 19th November, 1976).

2. Subs. by *ibid* for certain words (w.e.f. 19th November, 1976).

3 The words "or belonging to the same religious denomination" omitted by Act 106 of 1976, Sec. 5 (w.e.f.19th November, 1976).

4. Ins. by *ibid.*, Sec. 5 (w.e.f. 19th November, 1976).

5. Subs. by *ibid.*, Sec. 5, for certain words (w.e.f. 19th November, 1976).

(i) access to any shop, public restaurant, hotel or place of public entertainment; or

(ii) the use of any utensils, and other articles kept in any public restaurant, hotel, *dharmashala*, *sarai* or *musafirkhana* for the use of the general public or of ¹[any section thereof]¹; or

(iii) the practice of any profession or the carrying on of any occupation, trade or business ¹[or employment in any job]¹; or

(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing *ghat*, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or ¹[any section thereof]¹, have a right to use or have access to, or

(v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public or ¹[any section thereof]¹; or

(vi) the enjoyment of any benefit under a charitable trust created for the benefit to the general public or of ¹[any section thereof]¹ or

(vii) the use of, or access to, any public conveyance; or

(viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or

(ix) the use of any *dharmasala*, *sarai* or *musafirkhana*, which is open to the general public, or to ¹[any section thereof]¹; or

(x) the observance of any social or religious custom, usage or ceremony or ²[taking part in, or taking out any religious, social or cultural procession]²; or

(xi) the use of jewellery and finery;

³[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees]³.

⁴[*Explanation*.—For the purposes of this section, "enforcement of any disability" includes any discrimination on the ground of "untouchability".]

5. Punishment for refusing to admit persons to any hospitals, etc.—Whoever on the ground of "untouchability".—

(a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel ⁵[* * *], if such hospital, dispensary, educational institution or

1. Subs. by Act 106 of 1976 Sec. 6, for certain words (w.e.f. 19th November, 1976).

2. Subs. by the Sec. 6, *ibid.*, for "taking part in any religious procession" (w.e.f. 19th November, 1976).

3. Subs. by Sect. 7, *ibid.*, for certain words (w.e.f. 19th November, 1976).

4. Ins. by *ibid.*, Sec. 6 (w.e.f. 19th November, 1976).

5. Omitted by Act 106 of 1976, Sec. 7, for the words "attached thereto" (w.e.f. 19th Nov., 1976)

hostel is established or maintained for the benefit of the general public or any section thereof ; or

(b) does any act which discriminates against any such person after admission to any of the aforesaid institutions;

¹[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

6. Punishment for refusing to sell goods or render services.—Whoever on the ground of "untouchability" refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business ²[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.]

7. Punishment for other offences arising out of "untouchability".— (1) Whoever,—

(a) prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under Art. 17 of the Constitution, or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practice "untouchability" in any form whatsoever, ³ [or]

⁴[(d) insults or attempts to insult, on the ground of "untouchability" a member of a scheduled caste,]

⁵[shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.]

⁶[*Explanation 1*].—A person shall be deemed to boycott another person who,—

(a) refuses to let such other person or refuses to permit such other person, to use or occupy any house or land a refuses to deal with, work for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

1. Subs. by *ibid.*, for certain words (w.e.f. 19th November 1976).

2. Subs. by Sec. 8, *ibid.*, for certain words (w.e.f. 19th November, 1976).

3. Ins. by Act 106 of 1976, Sec. 9 (w.e.f. 19th November, 1976).

4. Subs. by *ibid.*, Sec. 7, for certain words (w.e.f. 19th November, 1976).

5. Subs. by Sec. 9, *ibid.*, for certain words (w.e.f. 19th November, 1976).

6. Re-numbered by Sec. 9, *ibid.* (w.e.f. 19th November, 1976).

¹[*Explanation II*]. For the purposes of Cl. (c) a person shall be deemed to incite or encourage the practice of "untouchability"—

(i) if he, directly or indirectly, preaches "untouchability" or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "untouchability" in any form.]¹

²[(1-A) Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to him by reason of the abolition of "untouchability" under Art.17 of the Constitution shall, where the offence is punishable with imprisonment for a term exceeding two years, be punishable with imprisonment for a term which shall not be less than two years and also with fine.]²

(2) Whoever,—

(i) denies to any person belonging to his community or section thereof any right or privilege to, which such person would be entitled as a member of such community or section, or

(ii) takes any part in the ex-communication of such person, on the ground that such person has refused to practice "untouchability" that such person has done any act in furtherance of the objects of this Act,

³[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.]³

⁴**[7-A. Unlawful compulsory labour when to be deemed to be practice of untouchability].**—(1) Whoever compels any person, on the ground of "untouchability" to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature, shall be deemed to have enforced a disability arising out of a "untouchability".

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation.—For the purposes of this section, "compulsion" includes a threat of social or economic boycott.]⁴

8. Cancellation or suspension of licences in certain cases.— When a person who is convicted of an offence under Sec.6 holds any licence under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the Court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such

1. Ins. by Act 106 of 1976, Sec.9 (w.e.f. 19t November, 1976).

2. Subs. by Sec. 9, *ibid.*, for certain words (w.e.f. 19t November, 1976).

3. Ins. by Act 106 of 1976, Sec.9 (w.e.f. 19t November, 1976).

4. Ins. by Act 106 of 1978 Sec. 10 (w.e.f. 19t November, 1976).

period as the Court may deem fit, and every order of Court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law.

Explanation.—In this section, "licence" includes a permit or a permission.

9. Resumption or suspension of grants made by Government.—Where the manager or trustee of a place of public worship ¹[or any educational institution or hostel] which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abetment of offence.—Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

²[Explanation.—A public servant who wilfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.]

³**10-A. Power of State Government to impose collective fine.**—(1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realized until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order or apportionment, may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realizable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective

1. Ins. by Act 106 of 1976, Sec. 11 . (w.e.f. 19th November, 1976).

2. Ins. by Sec. 12, *ibid*.

3. Ins. by Sec. 13, *ibid*.

fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973 (2 of 1974), for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.]

11. Enhanced penalty on subsequent conviction.—Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, ¹[shall, on conviction, be punishable—

(a) for the second offence, with imprisonment for a term of not less than six months and not more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;

(b) for the third offence or any offence subsequent to the third offence with imprisonment for a term of not less than one year and not more than two years and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees.]

12. Presumption of Courts in certain cases.—Where any act constituting an offence under this Act is committed in relation to a member of a scheduled caste ²[* * *] the Court shall presume, unless, the contrary is proved, that such act was committed on the ground of "untouchability".

13. Limitation of jurisdiction of Civil Courts.—(1) No Civil Court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No Court shall; in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on any person on the ground of "untouchability".

14. Offences by companies.—(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent of any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

1. Subs. by Act 106 of 1976, Sec. 14, for certain words (w.e.f. 19th november, 1976).

2. Omitted by Sec. 15, *ibid.*, for the words "as defined in Cl. 14 of Art. 366 of the Constitution (w.e.f. 19th november, 1976).

¹[**14-A. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act.

(2). No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.]

²[**15. Offences to be cognizable and triable summarily.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said Code.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence of abetment except with the previous sanction—

- (a) of the Central Government, in the case of a person employed in connection with the affairs of the Union; and
- (b) of the State Government in the case of a person employed in connection with the affairs of a State.

15-A. Duty of State Government to ensure that the rights accruing from the abolition of "untouchability" may be availed of by the concerned persons.—(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of "untouchability" are made available to, and are availed of by, the person subject to any disability arising out of "untouchability".

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include—

- (i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;
- (ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;
- (iii) the setting up of Special Courts for the trial of offences under this Act;
- (iv) the setting up of committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;
- (v) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;
- (vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.

1. Ins. by Act 106 of 1976, Sec.16 (w.e.f. 19th november, 1976).

2. Subs. by Sec. 17, *ibid*, for Sec. 15 (w.e.f. 19th november, 1976).

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Government in pursuance of the provisions of this section.]

16. Act to override other laws.—Save as otherwise expressly provided in this Act the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any Court or other authority.

¹**[16-A. Probation of Offenders Act, 1958, not to apply to persons above the age of fourteen years.**—The provisions of the Probation of Offenders Act, 1958 (20 of 1958), shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

16-B. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

17. Repeal.—The enactments specified in the schedule are hereby repealed to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained therein.

THE SCHEDULE

[See Sec. 17]

1. The Bihar Harijan (Removal of Civil Disabilities) Act, 1949 (Bihar Act XIX of 1949).
2. The Bombay Harijan (Removal of Social Disabilities) Act, 1946 (Bombay Act X of 1947).
3. The Bombay Harijan Temple Entry Act, 1947 (Bombay Act XXXV of 1947).
4. The Central Provinces and Berar Scheduled Castes (Removal of Civil Disabilities) Act, 1947 (Central Provinces and Berar Act XXIV of 1947).
5. The Central Provinces and Berar Temple Entry Authorization Act, 1947 (Central Provinces and Berar Act XLI of 1947).
6. The East Punjab (Removal of Religious and Social Disabilities) Act, 1948 (East Punjab Act XIV of 1948).
7. The Madras Removal of Civil Disabilities Act, 1938 (Madras Act XXI of 1938).

1. Ins. by Act 106 of 1976, Sec. 18 (w.e.f. 19th november, 1976).

8. The Orissa Removal of Civil Disabilities Act, 1946 (Orissa Act XI of 1946).
9. The Orissa Temple Entry Authorization Act, 1948 (Orissa Act XI of 1948).
10. The United Provinces Removal of Social Disabilities Act, 1947 (U.P. Act XVI of 1947).
11. The West Bengal Hindu Social Disabilities Removal Act, 1948 (West Bengal Act XXXVII of 1948).
12. The Hyderabad Harijan Temple Entry Regulations, 1358-F (No. LV of 138 Fasli).
13. The Hyderabad Harijan (Removal of Social Disabilities) Regulation, 1358-F (No. LVI of 1358 Fasli).
14. The Madhya Bharat Harijan Ayogta Nivaran Vidhan, Samvat 2005 (Madhya Bharat Act No. 15 of 1949).
15. The Removal of Civil Disabilities Act, 1943 (Mysore Act XLII of 1943).
16. The Mysore Temple Entry Authorization Act, 1948 (Mysore Act XIV of 1948).
17. The Saurashtra Harijan (Removal of Social Disabilities) Ordinance (No. XL of 1948).
18. The Travancore-Cochin Removal of Social Disabilities Act, 1125 (Travancore-Cochin Act VIII of 1125).
19. The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950, Travancore-Cochin (Act XXVII of 1950).
20. The Coorg Scheduled Castes (Removal of Civil and Social Disabilities) Act, 1949 (Coorg Act 1 of 1949).
21. The Coorg Temple Entry Authorization Act, 1949 (Coorg Act II of 1949).

THE PONDICHERRY CINEMAS (REGULATION) ACT, 1964

(No13 of 1964)

THE PONDICHERY CINEMAS (REGULATION)

ACT, 1964

(No13 of 1964)

15th January, 1965.

AN ACT

to provide for the regulation of exhibitions by means of cinematographs in the Union territory of Pondicherry.

WHEREAS it is expedient to provide for the regulation of exhibitions by means of cinematographs in the Union territory of Pondicherry;

BE it enacted in the Fifteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement. - (1) This Act may be called the Pondicherry Cinemas' (Regulation) Act, 1964.

(2) It extends to the whole of the Union territory of Pondicherry.

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

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

(a) "Cinematograph" includes any apparatus for the representation of moving pictures or series of pictures ;

(b) "Government" means the Administrator appointed under Article 239 of the Constitution;

(c) "Notification" means a notification published in the Official Gazette of the Union territory of Pondicherry ;

(d) "Place" includes a house, building, tent and any description of transport, whether by water, land or air;

(e) "Prescribed" means prescribed by the rules made under this Act ;

(f) "Competent authority" means

(i) in relation to the entire Union territory of Pondicherry, the District Magistrate (Independent) ; and

(ii) in relation to Karikal, Mahe and Yanam, the Administrator of the respective region.

3. Cinematograph exhibitions to be licensed. - Save as otherwise provided in this Act, no person shall give an exhibition by means of Cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

4. Licensing authority.- The authority having power to grant licences under this Act (hereinafter referred to as the Licensing Authority) shall be the District Magistrate (Independent).

Provided that the Government may, by a notification in the Official Gazette, constitute, for the whole or any part of the Territory, such other authority as it may specify in the notification, to be the licensing authority for the purpose of this Act.

5. Restrictions on powers of licensing authority.- (1) The licensing authority shall not grant a licence unless it is satisfied that-

(a) the rules made under this Act have been substantially complied with, and

(b) adequate precautions have been taken in the place in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein.

(2) The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films, to licensing authorities; and every licensing authority shall give effect such orders and directions.

(3) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine. When the licensing authority refuses to grant any licence, it shall do so by an order communicated to the applicant giving the reasons in writing for such refusal.

(4) Every licence under this Act shall be personal to the person to whom it is granted and no transfer or assignment thereof whether absolute or by way of security or otherwise shall be valid unless approved in writing by the licensing authority.

(5) Any person aggrieved by the decision of the licensing authority refusing to grant a licence under this Act or refusing to approve any transfer or assignment thereof, may within such time as may be prescribed, appeal to the Government or such authority as the Government may specify in this behalf and the Government or the authority, as the case may be, may make such order in the case as they or it may think fit.

(6) Licensing authority to permit construction and reconstruction of buildings, installation of machinery etc., for cinematograph exhibitions.- (1) Any person who intends-

(a) to use any place for the exhibition of cinematograph films ; or

(b) to use any site for constructing a building thereon for the exhibition of cinematograph films ; or

(c) to construct or reconstruct any building for such exhibition ; or

(d) to install any machinery in any place where cinematograph exhibitions are proposed to be given, shall make an application in writing to the licensing authority for permission therefor, together with such particulars as may be prescribed.

(2) The licensing authority shall thereupon, after consulting such authority or officer as may be prescribed, grant or refuse permission and the provisions of sections 5, 10 and 11 relating to licences shall so far as may be, apply to permission under this section.

7. Power of Government to issue directions.- The Government may, from time to time, issue directions to any licensee or to licensees generally, requiring the licensee or licensees to exhibit such film or class of films having a scientific or educative value, such films dealing with news and current events, such documentary films, indigenous films, or such other films having special value to the public, as may have been approved by the Central Government in that behalf from time to time ; and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted:

Provided that no direction issued under this section shall require the licensee to exhibit any such film or films exceeding two thousand feet at, or for more than one-fifth of the entire time taken for, any one show.

8. Power of licensing authority to issue direction.- The licensing authority may, from time to time, issue directions to any licensee or licensees generally, requiring the licensee or licensees to exhibit in each show such slides of public interest as may be supplied by that authority :

Provided that no direction issued under this section shall require the licensee to exhibit more than three such slides at, or for more than four minutes in any one show.

9. Power to suspend exhibition of films in certain cases.-

(1) The Competent Authority may, if he is of opinion that any film which is being or is about to be publicly exhibited is likely to cause breach of the peace, by order in writing suspend the exhibition of the said film ; and during such suspension, no person shall exhibit such film or permit it to be exhibited in any place in the State or any part thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against the order proposed to be issued in regard to him :

Provided that this sub-section shall not apply where the Competent Authority is satisfied that owing to any emergency or for some other reason, to be recorded by him in writing, it is not reasonably practicable to give to that person an opportunity of showing cause :

Provided further that a copy of the reasons recorded by the Competent Authority for issuing the order shall be communicated to the person concerned as soon as it becomes reasonably practicable to do so.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under sub-section (2), the decision thereon of the Competent Authority shall be final.

(4) Where an order under sub-section (1) has been issued by the Competent Authority, a copy thereof, together with a statement of the reasons therefor, shall forthwith be forwarded by him to the Government, and the Government may, on a consideration of all the facts of the case, either confirm or vary or discharge the order.

(5) An order issued under sub-section (1) shall remain in force for a period of two weeks from the date thereof, but the Government may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as they think fit :

Provided that the Government or the Competent Authority may review their own order.

10. Penalties.- If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or of the rules made thereunder, or of the conditions and restrictions upon or subject to which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

¹[**10A. Composition of offences:**

Any offence punishable under section 10, or any breach of the conditions of the licence or any contravention of the provisions of this Act and rules made thereunder may, either before or after the institution of prosecution, or cancellation or suspension of the licence issued under the provisions of this Act, be compounded by the District Magistrate on payment of such sum, as the District Magistrate thinks fit.]¹

11. Power to revoke licence.- Where the holder of a licence has been convicted of an offence under section 7 of the cinematograph Act, 1952 (Central Act XXXVII of 1952), or section 10 of this Act, the licence may be revoked by the licensing authority by an order in writing.

12. Power to make rules.- (1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generally of the foregoing power, such rules may provide for-

(a) the terms, conditions, and restrictions, subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;

(b) the regulation of cinematograph exhibitions for securing the public safety;

(c) the time within which and the conditions subject to which an appeal under sub-section (5) of section 5 may be preferred, and the fees to be paid in respect of such appeals;

(d) the procedure to be followed by persons submitting applications for permission under section 6;

(e) the documents and plans to be submitted together with such applications, and the fees to be paid on such applications;

(f) the matters to be taken into consideration by the licensing authority before approving the site for the construction of the building, or the plans for the construction or reconstruction of the building or the installation of machinery;

(g) the terms, conditions and restrictions subject to which the licensing authority may accord approval in respect of the matters referred to in clause (f) ;

(h) the action to be taken in cases of contravention of the terms, conditions and restrictions subject to which such approval was accorded ;

(i) the procedure to be followed by the licensing authority before granting or refusing permission under section 6 and any other matter incidental thereto.

1. Inserted by Act 7 of 1981, The Pondicherry Cinemas (Regulation) Amendment Act 1981 dated 7-7-1981.

(3) All rules made under this Act shall, as soon as may be after it is made, be laid before the Legislative Assembly of Pondicherry while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Power to exempt.- The Government may, by order in writing, exempt, subject to such conditions and restrictions as they may impose, any cinematograph exhibition or class of cinematograph exhibitions or any place where a cinematograph exhibition is given from any of the provisions of this Act or of any rules made thereunder.

14. Repeal.- Any law or any regulation in force in the Union territory of Pondicherry corresponding to the provisions of this Act shall stand repealed as from the coming into force of this Act:

Provided that anything done or any action taken, including any notification, instruction or direction issued, permit or licence granted under the law of regulation so repealed, shall be deemed to have been done or taken under the provisions of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act

THE CONSTITUTION (PONDICHERRY)
SCHEDULE CASTES ORDER, 1964.

¹ THE CONSTITUTION (PONDICHERRY) SCHEDULE CASTES ORDER, 1964.

In exercise of the powers conferred by clause (1) of Article 341 of the Constitution of India, the President is pleased to make the following Order, namely :-

1. This Order may be called the Constitution (Pondicherry) Scheduled Castes Order, 1964.

2. The castes, races or tribes or parts of or groups within castes, races or tribes specified in the Schedule to this Order shall for the purposes of the Constitution, be deemed to be Scheduled Castes in relation to the Union territory of Pondicherry so far as regards members thereof resident in that Union territory :

Provided that no person, who professes a religion different from the Hindu or the Sikh religion, shall be deemed to be a member of a Scheduled Caste.

THE SCHEDULE

1. Adi Andhra
2. Adi Dravida
3. Chakkiliyan
4. Jambuvulu
5. Kuravan
6. Madiga
7. Mala, Mala Masti
8. Paky
9. Pallan
10. Parayan, Sambavar
11. Samban
12. Thoti
13. Valluvan
14. Vetan
15. Vettiyan

S. RADHAKRISHNAN
President.

**THE KARAIKAL PANNAIYAL
PROTECTION ACT, 1966**

(No. 3 of 1966)

THE KARAIKAL PANNAIYAL PROTECTION ACT, 1966

(No. 3 of 1966)

THE KARAIKAL PANNAIYAL PROTECTION ACT, 1966

(Act No. 3 of 1966)

17th February, 1966

AN ACT

to provide for the improvement of agrarian conditions in the area known as Karaikal in the Union territory of Pondicherry.

WHEREAS it is necessary to regulate the relationship between farm labourers and land-owners and provide a machinery for settlement of disputes;

BE it enacted by the Legislative Assembly in the Sixteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement.-(1) This Act may be called the Karaikal Pannaiyal Protection Act, 1966.

(2) It shall extend to the area known as Karaikal in the Union territory of Pondicherry.

(3) It shall come into force on¹ such date as the Government may, by notification in the official Gazette, appoint.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context-

(a) "agricultural year" means the year commencing from 1st day of May ;

(b) "Conciliation Officer" means, in relation to any area, the Conciliation Officer appointed under this Act for such area and where no such officer has been appointed, the Revenue Officer/ Tahsildar having jurisdiction over the area ;

(c) "Government" means the Administrator appointed by the President under article 239 of the Constitution of India ;

(d) "gross produce" includes the yield obtained at the poradi ;

(e) "landowner" in relation to a pannaiyal means the owner of a land or other person deriving any right from him in respect thereof, who has engaged the pannaiyal for cultivating the said land ;

(f) "Pannaiyal" means any person engaged by the landowner to look after a farm and do all cultivation work on the land whenever necessary in the course of an entire agricultural year, but does not include one who is engaged either casually or only for a specific item of work ;

(g) "Revenue Court" means, the Revenue Court constituted under this Act and where no Revenue Court has been so constituted, the Court of the Administrator, Karaikal ;

1. The Act comes into force in Karaikal on the first day of May 1966 - Vide Notification No.7-36/65/F3, dated 1st May 1966 of the Finance Department, Pondicherry.

3. Act to override contract and other laws, etc.- The provisions of this Act-

(a) shall have effect notwithstanding anything to the contrary contained in any pre-existing law, custom, usage, agreement or decree or order of Court, but,

(b) shall not apply in respect of the land held by a landowner if the total extent of land held by him does not exceed one veli (6 and $\frac{2}{3}$ acres) which is either wet land or dry land irrigated from any Government source or three velis (20 acres) of dry land not irrigated from Government source

4. Appointment of Conciliation Officers.- The Government or any authority empowered by him in this behalf may, by order, appoint any person for any area specified therein, to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by this Act.

5. Constitution of Revenue Court.- The Government may, by notification in the official Gazette, constitute for any area specified therein a Revenue Court for the purpose of performing the functions entrusted to a Revenue Court by this Act.

6. Revision by the High Court.- The Revenue Court shall be deemed to be a Court subordinate to the High Court and its orders shall be liable to revision by the High Court on all or any of the following grounds, namely :-

(a) it has exercised a jurisdiction not vested in it by law, or

(b) it has failed to exercise a jurisdiction so vested, or

(c) it has acted in the exercise of its jurisdiction illegally or with material irregularity.

7. Wages payable to pannaiyals.-(1) Wages shall be payable to pannaiyals and member of their families, for each day of work done at the following rates in kind :-

(a) two marrakkals of paddy for every adult male worker;

(b) one marrakkal of paddy for every adult women worker;

(c) three-fourths marakkal of paddy for every worker not being an adult.

(2) No pannaiyal shall be entitled to claim in addition any kind of customary privilege or remuneration, provided that an adult male pannaiyal shall, in addition, be entitled at each harvest to his share in the aryvadaipangu (crop share) of half-a-marakkal for every kalam of gross produce (or in the case of produce other than paddy, of one twenty-fourth of the gross produce) and be given manaikollais according to custom.

8. Dismissal of pannaiyal,-(1) Whenever a landowner dismisses a pannaiyal he shall, within fifteen days from the date of such dismissal, make a report thereof in writing to the conciliation Officer having jurisdiction over the area.

(2) The Conciliation Officer may, on receipt of such report from the landowner, or of any complaint from the pannaiyal who has been dismissed, call upon the landowner and the pannaiyal concerned to appear before him in person or by agent and to represent their respective cases.

(3) After considering the representation, if any so made, and after making such further inquiry into the case as he may deem fit, the conciliation Officer may, if he finds that the dismissal of the pannaiyal was not just and proper, by an award in writing, require the landowner to take back the pannaiyal and reinstate him in all the rights which would have accrued to him but for his dismissal.

(4) If the landowner fails to comply with the award of the Conciliation Officer under sub-section (3), the Revenue Court may, on receipt of intimation of such failure, after such enquiry as it considers necessary, direct the landowner to pay the pannaiyal such compensation as may be fixed by it without detriment to the rights accruing to pannaiyal under subsection (3).

(5) If the landowner fails to pay the compensation so fixed to the pannaiyal, the Revenue Court may, on application by pannaiyal, direct that it be recovered as if it were an arrear of land revenue and paid over to the pannaiyal.

(6) Any landowner or pannaiyal may terminate the engagement by giving notice of not less than 12 months ending with the expiry of the next agricultural year, or by mutual agreement, provided that where the landowner terminates the engagement under this sub-section, he shall be liable to pay to the pannaiyal, grain or money equivalent to six months wages or such amounts as may be mutually agreed upon.

1[8-A. Special privileges for member of Armed Forces.- (1) Any pannaiyal enrolled as a member of the Armed Forces, on discharge or retirement from service, or on being sent to Reserve may make an application to the Conciliation Officer within such period as may be prescribed by rules made in this behalf for reinstating him as a pannaiyal with all the rights enjoyed by him immediately before his enrolment as a member of the Armed Forces.

(2) The Conciliation Officer shall , on receipt of an application under sub-section (1), call upon the landowner and the pannaiyal concerned to appear before him in person or by agent to represent their respective cases.

(3) After considering the representations, if any, so made and after making such further inquiry into the case as he may deem fit, the Conciliation Officer may,-

(a) if he is satisfied having regard to-

(i) the reduction, if any, in the extent of the farm after the date of the enrolment ;

(ii) the nature of the agricultural operations carried on in respect of that farm after the date of the application ; and

(iii) such other matters as may be prescribed by rules made in this behalf ; that it will not be just and proper to require the landowner to reinstate the pannaiyal, he may pass an order in this behalf ;or

(b) by an award in writing, require the landowner to take back the pannaiyal and reinstate him with all the rights enjoyed by him immediately before his enrolment as a member of the Armed Forces:

Provided that any award for reinstating any pannaiyal under this section shall, in respect of any farm where there are standing crops on the date of such award, take effect immediately after the harvest of such crops.

(4) The provisions of sub-sections (4) and (5) of section 8 shall, as far as may be, apply in relation to an award under clause (b) of sub-section (3) as they apply in relation to an award under sub-section (3) of section 8.

(5) Where a member of the Armed Forces dies while in service, the special privileges conferred by this section on such member shall be available to the widow of such member, or any person dependent upon such member immediately before his death.

(6) If a question arises whether any person is a member of the Armed Forces or not, such question shall be decided by the Government and the decision of the Government thereon shall be final.

Explanation.-In this section "member of the Armed Forces" means a person in the service of the Air Force, Army or Navy of the Union of India and includes a seaman]¹.

9. Adjudication of disputes.-(1) Save as otherwise expressly provided in this Act, any dispute between a landowner and a pannaiyal including any matter which affects their mutual harmonious relationship in the cultivation of land, or any question which may arise as to the payment or non-payment of any wages shall, on application by any party, be decided by Conciliation Officer.

(2) ¹[Against any award passed by a Conciliation Officer under sub-section (3) of section 8 or under clause (b) of sub-section (3) of section 8-A or any final order passed by a Conciliation Officer under clause (a) of sub-section (3) of section 8-A or under subsection (1) of this section, an appeal shall lie to the Revenue Court within thirty days of the passing of the award or order, as the case may be], unless the Court in the special circumstances of any case, condones the delay in preferring the appeal within that time ; and the decision of the Revenue Court in that matter shall be final.

(3) Every application under sub-section (1) and every memorandum of appeal under sub-section (2) shall bear a court-fee stamp of one rupee.

10. Bar of jurisdiction of civil and Administrative Court.-

No Civil Court or Administrative Court shall entertain any suit or other proceeding to set aside or modify any order, decision or award passed by any Revenue Court, Conciliation Officer, or other authority under this Act or in respect of any other matter falling within its or his scope.

11. Power to make rules.-(1) The Government may, by notification, make rules to carry out the purposes of this Act, and in particular for the execution or enforcement of any orders, decisions or awards passed thereunder or for the removal of any doubts or difficulties which may arise in giving effect to the provisions thereof.

(2) All rules made under this Act shall, as soon as may be after they are made, be laid before the legislative Assembly of Pondicherry while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that any such rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1.Substitution by Act 6 of 1971, section 3, w.e.f. 27-2-1971 E.G.No. 30 dt 24-3-1971

**THE PONDICHERRY PAWN BROKERS
ACT, 1966**

(No. 11 of 1966)

THE PONDICHERY PAWN BROKERS ACT, 1966

(Act No. 11 of 1966)

3rd June 1966,

AN ACT

to regulate and control the business of the pawn brokers in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Seventeenth Year of the Republic of India as follows :—

1. **Short title and commencement.**— (1) This Act may be called the Pondicherry Pawnbrokers Act, 1966.

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

2. **Extension and adaptation.**— (1) The Madras Pawnbrokers Act, 1943 (Madras Act No. 23 of 1943) (hereinafter referred to as the said Act) as in force in the State of Madras immediately before the commencement of this Act shall extend to come into force in the Union territory of Pondicherry subject to the following modifications and adaptations, namely:—

(i) Any reference in the said Act or in any rule to the State of Madras shall be construed to the Union territory of Pondicherry;

(ii) Any reference in the said Act or in any rule to the 'State Government' be construed as a reference to the 'Administrator' appointed by the President under article 239 of the Constitution;

(iii) Any reference to any provision of law not in force or to any functionary not in existence in the Union territory of Pondicherry shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that territory;

Provided that—

(a) if any question arises as to who such corresponding functionary is, or

(b) if there is no such corresponding functionary, the Administrator shall decide as to who such functionary will be and such decision shall be final;

(iv) Any reference in the said Act or rules to 'Fort St. George Gazette' or 'District Gazette' shall be construed as reference to 'official Gazette'.

(v) In section 3 of the said Act-

(a) sub-section (1) shall be omitted.

(b) In sub-section (3), for the words 'Madras Co-operative Societies Act 1932' the words 'Pondicherry Co-operatives Societies Act, 1965 (Act No 11 of 1965)' shall be substituted

(c) for sub-clause (ii) of section (5), the following shall be substituted, namely:—

'(ii) an advance made by a banking Company as defined in section 5 (c) of the Banking Regulation Act, 1949 (Central Act X of 1919) or by the State Bank of India or by any other banking institution notified under section 51 of the said Act or a Co-operative society';

(vi) in sub-section (1) of section 3, omit the brackets and the words 'other than section 1';

(vii) in sub-section (1) of section 6, of the said Act, the words 'Notwithstanding anything contained in the Decree dated 22nd September, 1935' shall be inserted at the beginning and the word 'naya' shall be omitted.

(viii) in clause (a) of sub-section (3) of section 10-B, the words 'in the mufassal or a Presidency Magistrate in the Presidency town' shall be omitted.

(ix) In section 12 of the said Act-

(a) at the beginning of sub-section (1), the words 'subject to the provisions of any other law' shall be inserted.

(b) sub-section (2) shall be omitted.

(x) For section 19 of the said Act, the following shall be substituted namely :—

"19. Jurisdiction to try offences.— No Court inferior to that of a Magistrate of second class shall try any offence punishable under this Act".

(xi) For sub-section (4) of section 22 of the said Act, the following sub-section shall be substituted, namely :—

" (4) Every rule made under this Act shall, as soon as may be after it is made, be laid before the Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modifications in the rule or decides that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(xii) Sections 21-A, 23, 24 and 25 shall be omitted.

(2) The Madras Pawnbrokers Rules, 1944 and any other rules made or issued under the said Act and similarly in force, in so far as their application is required for the purpose of effectively applying the provisions of the said act, are also hereby applied to, and shall be in force in the Union territory of Pondicherry.

3. **Power to remove difficulty.**— If any difficulty arises in giving effect to the provisions of the said Act, the Government may, by order in the Official Gazette, make such provisions or give such directions as appear to it to be necessary for the removal of the difficulty, in so far as it is not inconsistent with the provisions of the said Act or rules.

4. **Repeal or existing law.**— The Decree No. 386, dated 22nd February, 1906 promulgated by Arrete No.385, dated 18th June, 1906 shall stand repealed.

ANNEXURE

THE MADRAS PAWNBROKERS ACT, 1943

(As extended to the Union territory of Pondicherry)

(Madras Act XXIII of 1943)

AN ACT

to regulate and control the business of pawnbrokers in the State of Madras

Whereas it is expedient to make provision for the regulation and control of the business of pawnbrokers in the State of Madras;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**— (1) This Act may be called the Madras Pawnbrokers Act, 1943.

(2) It extends to the whole of the State of Madras.

(3) [Omitted.]

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context-

(1) (Omitted)

(2) 'Company' means the Company-

(a) registered under any of the enactments relating to companies for the time being in force in India or in the United Kingdom or in any of the British Dominion or in any of the Colonies of the United Kingdom; or

(b) incorporated by an Act of Parliament of the United Kingdom or by Royal Charter of Letters Patent or by any Central Act.

(3) "Co-operative Society" means a society registered or deemed to be registered under the Pondicherry Co-operative Societies Act, 1965 (Act No. 11 of 1965)

(3-A) "Inspector" means an Inspector appointed under sub-section (1) of section 10-B.

(4) "Interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a pawnbroker for or on account of charges, but save as aforesaid includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a pawnbroker in consideration of or otherwise in respect of a loan;

(5) "loan" means an advance of money or in kind at interest and includes any transaction which the court finds in substance to amount to such an advance, but does not include-

(i) a deposit of money or other property in a Government Post office savings Bank or in a company or

(ii) an advance made by a Banking company as defined in section 5 (c) of the Banking Regulation Act, 1949 (Central Act X of 1949) or by the State Bank of India or by any other banking institution notified under section 51 of the said Act or a co-operative society;

(iii) an advance made by Government or by any person authorised by Government to make advance in their behalf, or by any local authority;

(iv) an advance made by any person bona fide carrying on any business not having for its primary object the lending of money, if such loan is advanced in the regular course of such business; and

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, or by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture;

(6) "pawnbroker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

Explanation.— Every person who keeps a shop for the purchase or sale of goods or chattels and who purchases goods or chattels and pays or advance thereon any sum of money with or under an agreement or understanding expressed or implied that the goods or chattels may be afterwards re-purchased on any terms is a pawnbroker within the meaning of this clause;

(7) "pawner" means a person delivering an article for pawn to a pawnbroker;

(8) "pledge" means an article pawned with a pawn broker;

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

(10) "principal" in relating to a loan means the amount actually lent to the pawner, and

(11) "year" means the financial year.

3. **Pawn broker to obtain licence annually.—** (1) No person shall, after the expiry of three months from the date on which the provisions of this Act come into force in any area, carry on or continue to carry on business as a pawnbroker at any place in such area, unless he has obtained a pawnbrokers licence under this Act.

Explanation.— Where a pawnbroker has more than one shop or place of business, whether in the same town or village or in different towns and villages, he shall obtain a separate pawnbroker's licence in respect of each such shop or place of business.

(2) Every pawnbroker's licence granted under this act shall expire on the last day of the year for which it was granted, but may renewed from year to year.

4. **Grant and refusal of licence.—** (1) Every application for a pawnbroker's licence shall be in writing and shall be made to the licensing authority prescribed under this Act.

(2) The licence shall not be refused except on one or both of the following grounds, namely:—

(a) that the applicant is of bad character.

Explanation.— If any evidence of bad character is adduced against the applicant, he shall be given an opportunity of rebutting such evidence: and

(b) that the shop or place at which he intends to carry on the business of a pawnbroker or any adjacent house or shop or place, owned or occupied by him, is frequented by thieves or persons of bad character:

Provided that the licence shall not be refused under this sub-section unless the applicant has had a reasonable opportunity of making his representations.

(3) In granting or refusing to grant a licence under this section, the licensing authority may consult such authority or officer as may be prescribed.

(3-A) Any person aggrieved by an order of the licensing authority refusing to grant licence under this section may, within such time as may be prescribed, appeal to such authority as the Administrator may specify in this behalf and such authority may make such order in the case as he may think fit.

(4) Every licence shall be granted in such form and subject to such conditions as may be prescribed and on payment of such fee not exceeding ¹ [one hundred rupees] as the Administrator may, from time to time, by notification in the Official Gazette, determine.

5. Pawnbrokers to exhibit their names over shops, etc.— Every pawnbroker shall—

(a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word Pawnbroker in the chief language of the locality; and

(b) always keep placed in a conspicuous part of his shop or place of business so as to be legible to all persons resorting thereto the information required to be printed on pawntickets by rules made under this Act, in the chief language of the locality.

6. Interest and charges allowed to pawnbrokers.— ²[(1) Notwithstanding anything contained in the Decree dated 22nd September, 1935, no pawnbroker shall charge interest in respect of a loan on a pledge at a rate exceeding such rate as the State Government may, by notification, fix from time to time:

Provided that the rate of interest, as may be fixed by the State Government, shall be correlated to the current bank rates of lending, as may be fixed by the Reserve Bank of India, from time to time.]²

(2) A pawnbroker may demand and take from the pawner such charges and in such cases as may be prescribed.

(3) A pawnbroker shall not demand or take from the pawner any profit, interest, charge or sum whatsoever, other than the interest due to him and the charges, if any, referred to in sub-section (2)

7. Pawn ticket to be given to pawner.— Every pawnbroker shall on taking a pledge in pawn give to the pawner a pawn-ticket in the prescribed form, and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

8. Conditions relating to redemption of pledge.— (1) In the absence of a decree of an order of a civil court, or an order of a Magistrate or an officer of police not below the rank of Sub-Inspector prohibiting the delivery by the pawnbroker, of the pledge, to the pawner, the pawner shall, on

1. Substituted by Act 12 of 1973, section 2, w.e.f. 3-10-1973.

2. Substituted vide THE PONDICHERRY PAWN BROKERS (AMENDMENT) ACT, 1980 (Act No. 7 of 1980. w.e.f. 3-7-1980)

production of the pawn-ticket and on payment of the sum legally payable in respect thereof, be entitled to the delivery of the pledge.

(2) On a declaration in the prescribed form from the Pawner that the right to redeem the pledge has been transferred to, or is vested in, some other person and on a declaration from that other person that he is in possession of the pawn-ticket and that he is entitled to redeem the pledge, the pawnbroker shall cause an endorsement to be made on the pawn-ticket that the holder thereof is such other person, and shall cause the necessary entry to be made in the pledge book and thereafter the former person's right to redeem shall be extinguished and such other person shall be deemed to be the pawner for the purposes of this section.

(3) Where a person claiming to be the messenger or agent of the pawner produces the pawn ticket and offer to redeem the pledge, the pawn broker may, after obtaining from the person so claiming, a declaration in the prescribed form, allow redemption if the pawnbroker is satisfied that the person who claims to be such messenger or agent is in fact such messenger or agent:

Provided that such pawnbroker shall remain liable to compensate the pawner if it be found later that such messenger or agent had not in fact been duly authorised by the pawner to redeem the pledge.

Provided further that, where a person claiming to be the messenger or agent of the pawner produces the pawn-ticket and offers to redeem the pledge, the pawnbroker may send a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and if he does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice would in the usual course of post reach the pawner, the pawnbroker may allow the person claiming to be such messenger or agent to redeem the pledge and shall in that event be exonerated from further liability to the pawner or any person claiming under him.

(4) (a) Where the pawner is dead and a person produces the pawn-ticket claiming to be the legal representative of the pawner and offers to redeem the pledge, the pawnbroker shall allow such redemption, after obtaining from such person-

(i) a declaration in the prescribed form duly made by such person before any Magistrate or Judge; and

(ii) a bond duly executed by such person with one or more sureties to the satisfaction of the pawnbroker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawnbroker in respect of any liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration:

Provided that no such declaration or bond shall be necessary if such person produces an order of a civil court having jurisdiction to entertain a suit for the redemption of the pledge, authorizing him to redeem the pledge as the legal representative of the deceased pawner and in any such case, the pawnbroker shall allow redemption.

(b) The amount of every bond executed under clause (a) shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(5) Where a person comes into possession of a pawn-ticket as the assignee of the pawner such person shall give notice of such assignment to the pawnbroker in the prescribed form, but the pawnbroker shall not be bound to recognize the claim of such person to redeem the pledge unless the pawner intimates to the pawnbroker the fact of such assignment or unless the pawnbroker, after having sent a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker intimating to him the claim made under the alleged assignment, does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice would in the usual course of post reach the pawner.

(6) Where the pawner alleges that the pawn-ticket has been lost or destroyed and claims redemption of the pledge, the pawnbroker shall, after obtaining from the pawner, a declaration in the prescribed form allow such redemption unless the pawnbroker has received intimation from any other person that he is in possession of the pawn-ticket and is entitled to redeem the pledge.

Provided that, before allowing such redemption, the pawnbroker may insist on security to his satisfaction or to the satisfaction of such authority or person as may be prescribed in this behalf being given by the pawner against possible claim by any other person.

(7) Where a person claims to be the owner of a pledge and alleges that the pledge was pawned without his knowledge or authority, the pawnbroker shall take a declaration from such person in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and similarly to every other person who has made any claim to the pawnbroker of being entitled to redeem the pledge, and if the pawnbroker does not receive any communication in writing from the pawner or any other such person prohibiting the delivery of the pledge to the claimant, within two weeks after the date on which the notice or notices would in the usual course of post reach the addressee or addressees the pawn broker may allow the claimant to redeem the pledge, and the pawnbroker shall in that event be exonerated from further liability to the pawner or any person claiming under him.

9. (Omitted)

10. **Pawnbrokers to keep books, give receipts etc.—** (1) Every pawnbroker shall-

(a) regularly record and maintain or cause to be recorded and maintained in a pledge book in the prescribed form, an account showing for each pawner separately—

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan percent per annum or per rupee per mensem or per rupee per annum;

(ii) the amount of every payment received by the pawn broker in respect of the loan, and the date of such payment;

(iii) a full and detailed description of the article of each of the articles taken in pawn.

(iv) the time agreed upon for the redemption of the pawn,

(v) the name and address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof;

(vi) such other particulars as may be prescribed.

(b) keep and use in his business the following documents and books (which shall be in the prescribed form) and enter therein from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions as may be prescribed:—

(i) pawn-ticket;

(ii) sale book of pledges;

(iii) declaration where pledge is claimed by owner;

(iv) declaration of pawn-ticket lost;and

(v) receipt on redemption of pledge;

(c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment; and

(d) on requisition in writing made by the pawner furnish to the pawner or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount, which remains outstanding on account of the principal and of interest, and charge such sum as the Administrator may prescribe as fee therefor;

Provided that no such statement shall be required to be furnished to a pawner if he is supplied by the pawnbroker with a pass book in the prescribed form containing an up-to-date account of the pawnbroker's transactions with the pawner.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents and all pledges taken by the pawnbroker shall be open to inspection at any time by the Inspector having jurisdiction.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872), a copy of the account referred to in clause (a) of sub-section (1), certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(4) A pawner to whom a statement of account has been furnished under clause (d) of sub-section (1) and who fails to object to the correctness of the account shall not, by such failure alone, be deemed to have admitted the correctness of such account.

(5) In the pawn-ticket furnished to the pawner, in the receipt given under clause (c) of sub-section (1) and in the statement of account furnished under clause (d) of that sub-section the figures shall be entered only in Arabic numerals.

10-A. Pawnbroker to keep pledge in his shop or place of business.— Every pawnbroker shall ordinarily keep every pledge in the shop or place of business for which the licence has been granted. If in any case, the pawnbroker keeps the pledge in any place other than such shop or place of business, he shall, within a period of seven days from the date on which the holder of a pawn ticket intimates his desire to inspect the pledge concerned, produce such pledge at the shop or place of business aforesaid for such inspection.

10-B Appointment of Inspectors and their powers.— (1) The Administrator or any authority or officer empowered by them may, by notification, appoint one or more persons to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860)

(3) (a) A Magistrate of the first - class may, on receiving a report from an inspector or from any police officer not below the rank of sub - Inspector that-

(i) any person carries on business as a pawnbroker without a licence at any place within the jurisdiction of such Magistrate, or

(ii) any pawnbroker carries on business in contravention of the provisions of this Act or the rules made thereunder of the conditions of the licence granted under this Act, at any place within the jurisdiction of such Magistrate, issue warrant empowering the Inspector or, as the case may be, such police officer to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, sales, vaults and pledges in such premises. On receiving such warrant, the Inspector or the Police officer may enter the place and inspect the books, accounts, records, files, documents, sales, vaults and pledges in such premises and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary:

Provided that if the Inspector or the police officer removes from the premises any books, accounts, records, files and documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files and documents so removed by him

Provided, further that within twenty-four hours of the removal of the books, accounts, records, files and documents, from the premises, the Inspector or the police officer shall either return them to the person from whose custody they were removed or produce them in the court of the Magistrate who issued the warrants. such Magistrate may return the books, accounts, records, files and documents or any of them to the person from whose custody they were removed by the Inspector or the police officer, after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector, the police officer or the court or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or pledge on any other transaction of a pawnbroker to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(4) An Inspector may apply for assistance to an officer in charge of a police station and take police officer to accompany and assist the Inspector in performing his duties under this Act.

11. Redemption of pledge.— (1) Every pledge shall be redeemable within one year from the date of pawning, exclusive of that day; and there shall be added to that year of redemption seven days of grace within which every pledge shall continue to be redeemable.

(2) A pledge shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation.— Where the contract between the parties provides a longer period for redemption than one year, the provisions of this section shall be read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

12. Sale of pledge and inspection of sale book.— (1) Subject to the provisions of any other law, a pledge pawned shall not be disposed of by the pawnbroker otherwise than by sale at a public auction, conducted in accordance with such rules as may be prescribed.

(2) (Omitted)

(3) At the time within three years after the public auction the holder of the pawn-ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4) (a) Where a pledge has been sold for more than the amount of the loan the Interest and prescribed charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawn ticket on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and prescribed charges of the sale.

(b) If on such demand it appears that the sale of the pledge has resulted in a surplus but that within twelve months before such sale, the sale of any other pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set-off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set-off.

13. Liability of pawnbroker in case of fire.— (1) Where a pledge is lost by theft or is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation.— For the purpose of this sub - section, the value of the pledge shall be its estimated value (if any entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twenty - five percent on the amount of the principal.

(2) A pawnbroker shall be entitled to ensure to the extent of the value so estimated.

14. Compensation for depreciation of pledge.— If a person entitled and offering to redeem a pledge shows to the satisfaction of a civil court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker the Court may if it thinks fit award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the court directs.

14-A. Power to cancel licences, etc.— (1) The licensing authority specified in sub - section (1) of section 4 may, at any time, during the term of any licence cancel it by an order in writing.

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or of the conditions of the licence, or

(b) if any reason for which such authority could have refused to grant the licence to the pawnbroker under sub - section (2) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted for an offence under sub-section (1) of section 15, or.

(d) if the licensee maintains false accounts.

(2) Before cancelling a licence under sub - section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence under sub -section (1), may, within such time as may be prescribed, appeal to such authority as the Administrator may specify in this behalf and such authority may make such order in the case as he may think fit.

14-B. Publication of order of cancellation.— Every order of cancellation of a licence under section 14-A shall be notified in the Official Gazette and also on the notice-board of the office of the licensing authority.

14-C. No compensation for cancellation of licence.— A person whose licence is cancelled under section 14-A shall not be entitled to any compensation in respect of such cancellation or to the refund of any fee paid in respect of such licence.

14-D. Auctioneers to maintain certain registers.— (1) Auctioneers conducting sales under this Act of pledges shall maintain such registers containing such particulars as may be prescribed.

(2) At any time within three years after the public auction, any police officer not below the rank of sub-Inspector may inspect the registers referred to in sub-section (1) at all reasonable times and at such places as may be prescribed.

15. Pawnbroker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable.— (1) Any pawnbroker who actually advances an amount less than that shown in the pawn-ticket or in his accounts or registers or who takes or receives interest or any other charges at a rate higher than that shown in the pawn-ticket or in his accounts or registers shall be punished with fine which may extend to five hundred rupees.

(2) If a pawnbroker is convicted of an offence under sub-section (1) after having been previously convicted of such an offence, the court convicting him may order his licence as a pawnbroker to be cancelled.

16. Certain other acts of pawnbrokers to be punishable.— (1) takes an article in pawn from any person appearing to be under the age of eighteen years, or to be of unsound mind;or

(2) Purchases or takes in pawn or exchanges a pawn-ticket issued by another pawnbroker;or

(3) employs any person under the age of eighteen years to take pledges in pawn;or

(4) under any pretence purchases, except at a public auction, any pledge while in pawn with him;or

(5) Suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it;or

(6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale or disposition thereof within the time of redemption; or

(7) Sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under this Act; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

17. Certain acts of pawners to be punishable.— (1) Any person who-

(a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or

(c) not being entitled to redeem, and not having any colour of title by law to redeem, a pledge, attempts or endeavours to redeem the same; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both.

(2) In every case falling under sub-section (1), and also in any case where, on an article being offered in pawn, for sale, or otherwise, to a pawnbroker he reasonably suspect that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, if any, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, if any, seized to the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and thereupon it shall be the duty of such pawnbroker-

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale, otherwise, to proceed in accordance with the provisions of sub-section (2); and

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also, if so required by the police, to deliver the article to them.

18. General penalty for contravention of Act, etc.— (1) Whoever contravenes any of the provisions of this Act or of any rule or of any terms or conditions of a licence made or granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to fifty rupees and, if such persons has been previously convicted whether under this section or any other provision contained in this Act, with fine which may extend to one hundred rupees.

(2) Any person who after having been convicted of the offence of carrying on, or continuing to carry on, the business of pawnbroker in contravention of the provisions of section 3, continues to commit the same offence in the same year, shall, in addition to the fine to which he is liable under sub-section (1), be punished with a further fine which may extend to ten rupees for each day after the previous date of conviction during which he continues so to offend.

(3) Any Court convicting a pawnbroker of contravention of the provisions of clause (c) or clause (d) or sub-section (1) of section 10 may direct him to furnish a receipt or statement of account in accordance with the provisions of that clause, and if the pawnbroker fails to comply with the direction, the court may order his licence as a pawnbroker to be cancelled.

19. Jurisdiction to try offences.- No Court inferior to that of a magistrate of second class shall try any offence punishable under this Act.

20. (Omitted)

21. Contracts not to be void on account of offences but interest and costs not to be allowed in certain cases.- Where a pawnbroker is guilty of an offence under this Act, or where his licence is called under any of the provisions of this Act any contract of pawn or other contract made by him, in relation to his business of pawnbroker, shall nevertheless not be void by reason only of that offence, or cancellation nor shall be by reason only of that offence or cancellation lose his lien on or right to the pledge or to the loan and the Interest and other charges if any, payable in respect thereof; nor shall that offence or cancellation affect any obligation or liability incurred by the pawnbroker before that offence or cancellation.

Provided that if a pawnbroker fails to deliver to the pawner a pawner a pawn - ticket as required by section 7 or fails to give to the pawner or his agent a receipt as required by clause (c) of sub - section (1) of section 10 or to furnish on a requisition made under clause (d) of that sub - section, a statement of account as required therein within one month after such requisition has been made, the pawnbroker shall not be entitled to any interest for the period of his default:

Provided further that if in any suit or proceeding relating to a loan, the Court finds a pawnbroker has not maintained accounts as required by clause (a) or clause (b) of sub - section (1) of section 10, he shall not be allowed his costs.

21. A. (Omitted).

22. Power to make rules.-(1) The Administrator may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form of, and the particulars to be contained in, an application for a pawnbroker's licence under this Act;and

(c) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used.

(3) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as may be after it is made, be laid before the legislative Assembly while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. (Omitted).

24. (Omitted).

25. (Omitted).

THE PONDICHERRY BUILDINGS (LEASE AND RENT CONTROL) ACT, 1969

(ACT No. 5 OF 1969)

THE PONDICHERRY BUILDINGS (LEASE AND RENT CONTROL) ACT, 1969

(ACT No. 5 OF 1969)

7th June, 1969.

AN ACT

to regulate the letting of residential and non-residential building and the control of rents of such buildings and the prevention of unreasonable eviction of tenants therefrom in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twentieth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Pondicherry Buildings (Lease and Rent Control) Act, 1969.

(2) It shall extend to the whole of the Union territory of Pondicherry.

¹ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and for different areas and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

² [(4) Omitted]

Definitions

2. In this Act, unless the context otherwise requires;-

(1) "accommodation appellate authority" means an officer appointed, by notification in the Official Gazette, to function as accommodation appellate - authority under this Act;

(2) "appellate officer" means any officer-authorized by the Government under sub-section. (1) of section 4;

(3) "authorised officer" means any officer, authorised by the Government under sub-section (1) of section 4;

(4) "building" means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes-

(a) the garden, grounds and out-houses, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut;

(b) any furniture supplied by the landlord for use in such building or hut or part of a building or hut, but does not include a room in a hotel or boarding house;

1. The Act came into force from 1st August 1969, Vide Extraordinary Gazette No.88 dated 1-8-1969.

2. Omitted by Act No. 8 of 1980 dt 3-06-1980

¹ [(5) "Controller" means any person appointed by the Government by notification in the official Gazette to exercise the powers and perform the functions of a controller under this Act for such area as may be specified in the notification.]

(6) "Government" means the Administrator of the Union territory appointed by the President under Article 239 of the Constitution;

(7) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of any other or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant;

Explanation:- A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in to the sub-tenant.

² [(7a) "Member of his Family" in relation to a landlord means his spouse, and dependent children.]

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

(9) "repairs" means the restoration of a building to a sound or good state after decay or injury but does not include additions, improvements or alterations except in so far as they are necessary to carry out such restoration;

³ [(10) "tenant" means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son, or daughter, or the legal representative of a deceased tenant who-

(i) in the case of a residential building, had been living with the tenant in the building as a member of the tenant's family upto the death of the tenant, and

(ii) in the case of a non-residential building, had been in continuous association with the tenant for the purpose of carrying on the business of the tenant upto the death of the tenant and continues to carry on such business thereafter, and a person continuing in possession after the termination of the tenancy in his favour but does not include a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market, car-stand or slaughter-house or of rents for shops has been farmed out or leased by Municipalities or Village or Commune Panchayats;]

(11) "Union territory" means the Union territory of Pondicherry.

Act not to apply to certain premises

(3) Nothing in this Act shall apply-

(a) to any premises belonging to the Government; or

(b) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease or requisitioned, by the Government.

1. Substituted by Act No. 8 of 1980 dated 3-7-80.
2. Inserted by Act No. 8 of 1980 dated 3-7-80.
3. Substituted by Act No. 8 of 1980 dated 3-7-80.

Notice of vacancy

4. (1) (a) (i) Every landlord shall, within seven days after the building becomes vacant-

(A) by his ceasing to occupy it, or

(B) by the termination of the tenancy, or

(C) by eviction of the tenant or

(D) Where any such building has been requisitioned under any law for the time being in force other than this Act, by release from such requisition,

give notice of the vacancy in writing to the officer authorised in that behalf by the Government.

(ii) Every tenant shall, within seven days after the building becomes vacant, by his ceasing to occupy it or by the termination of his tenancy give notice of the vacancy in writing to the officer authorised in that behalf by the Government.

Explanation I. - A landlord who, having obtained possession-

(i) of a residential building under sub-section (3) of section 10 lets the ¹ ["whole or part"] of it to a tenant, or

(ii) of a non-residential building under sub-section (3) of section 10 lets the ¹ [whole or part] of it to a tenant,

shall be deemed to have failed to give notice under this section.

Explanation II-A buyer-

(i) who having obtained vacant possession of a building in pursuance of a sale of such building, lets the ¹ whole or part ¹ of it to a tenant, or allows the whole or part of it to be occupied by any person; or

(ii) who, without obtaining such vacant possession, allows the seller to occupy the ¹ whole or part¹ of the building, shall be deemed to have failed to give notice under this section.

(b) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) Where the tenant of a building puts an other person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have been terminated and it shall be the duty of the tenant, and also of the landlord if he is aware of such termination, to give notice thereof in writing to the authorised officer within seven days of such termination:

Provided that where the tenant obtains written permission from the authorised officer to re-occupy the building within a period of six months, this sub-section shall have effect as if for the period of three months specified therein a period of six months were substituted.

Explanation.-This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the authorised officer under sub-section (1) and in conformity with the provisions of this section.

1. Substituted by Act No. 8 of 1980 dated 3-7-80.

(3) ¹ [" If within ten days of the receipt by the authorised officer of a notice from the land lord under sub-section(1)"] or sub-section (2), the Government or the authorised officer do or does not intimate to the landlord in writing that the building is required for the purposes of the Government of the Union territory or a State or Central Government or of any local authority or of any public institution under the control of any such Government or for the occupation of any officer of such Government; the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

²["(3-A) The Government may, on the application made by the landlord, within fifteen days from the date of the communication of the intimation by the authorised officer under sub-section (3), rectify any error apparent on the face of the record".]

(4) Where intimation is given under sub-section (1), the landlord shall not let the building to a tenant or occupy it himself, or use or permit the use of the building in any manner by any other person before the expiry of the period of ²[ten days] specified in sub-section (3), unless in the meantime he has received intimation from the authorised officer that the building is not required for the purposes, or for occupation by any of the officers, specified in that sub-section.

(5) If the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3), the landlord shall deliver possession of the building and the fixtures and fittings in or on the buildings, in good tenantable repairs and condition, to the authorised officer, or to the allottee named by the authorised officer, as the case may be, and the Government shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the authorised officer received notice under sub-section (1) or sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the Controller:

Provided that where the landlord fails to deliver possession of the building to the authorised officer within forty-eight hours of the receipt of the intimation that the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3), or within such further time as the authorised officer may, by order in writing, allow, the Government shall be deemed to be the tenant of the landlord only from the date on which he delivers possession:

Provided further that where owing to any omission or act or obstructive or preventive tactics on the part of the landlord there has been delay in coming to a decision whether or not the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3), the Government shall be deemed to be the tenant of the landlord only from such other date as may be fixed by the authorised officer having regard to the circumstances of each case:

Provided also that the rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act; and if no fair rent has been so fixed, such reasonable rent as the authorised officer may determine, in such manner as may be prescribed:

Provided also that the reasonable rent fixed by the authorised officer under the foregoing proviso shall be subject to such fair rent as may be fixed by the Controller.

Explanation.- Where before the fixation of fair rent, rent has been paid in excess thereof, the refund or adjustment shall have retrospective effect from the date on which the Government shall be deemed to be the tenant of the landlord, provided the application for fixation of fair rent is made within a period of ninety days from such date; where such application is made after the said period of ninety days, the refund or adjustment shall be limited to the amount paid in excess for the period commencing on the date of application by the tenant or land-lord for the fixation of fair rent and ending with date of such fixation:

1. Substituted by Act No. 8 of 1980 dated 3-7-80.

2. Inserted by Act No. 8 of 1980 dated 3-7-80.

3. Substituted by Act No. 8 of 1980 dated 3-7-80.

Provided also that on the delivery of possession of the building, the allottee shall pay rent to the landlord proportionately for any part of the calendar month of his occupation, and in advance on or before the 5th day of each calendar month:

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is obtained therefor.

(6) If, in the case of a residential building the possession of which has been delivered to the authorised officer under sub-section (5) and in the occupation of an officer of the Union territory or a State or Central Government, the fair rent is subsequently fixed at an amount not exceeding twenty-five rupees per month, the said officer shall be deemed to have become the tenant of the landlord on the date on which such fair rent is fixed on the same terms, except as to rent, as obtained between the landlord and the Government on the said date.

(7) In cases not falling under sub-section (5), where the landlord lets the building to any tenant after giving notice to the authorised officer under sub-section (1) or sub-section (2) and without having occupied the building himself, or used or permitted the use of the building in any manner by any other person, the tenancy shall be deemed to have been antedated by the number of days during which the landlord was prohibited from letting the building to any tenant by virtue of sub-section (4) and the tenant shall be liable to pay rent for those days also.

(8) (a) Where a landlord has two or more residential buildings in the same Commune and they have not been already let by him, then within fifteen days from the date on which this Act comes into force in the said Commune or part thereof, or from the date on which the landlord commenced to have more than one such building, whichever is later, the landlord may choose any one of such buildings for his own occupation and shall give notice to the authorised officer of the building so chosen by him and of every other building not so chosen.

(b) When giving notice as aforesaid, the landlord shall also specify therein-

(i) Whether he requires any such building for the occupation of any member of his family or any dependant of his and, if so, where the member or dependant, as the case may be, is residing and the necessity for any change of residence; and

(ii) Such other particulars as may be prescribed.

(c) The authorised officer may, if he is satisfied that the residential building is required **bona fide** for the occupation of any member of the family of the landlord or of any of his dependants, make an order permitting the landlord to allow such member or dependant, as the case may be, to occupy the residential building for a specified or an unspecified period; and if the authorised officer is not so satisfied, he shall make an order refusing such permission.

(d) Any landlord who is aggrieved by any order passed by the authorised officer under clause (c) may, within seven days from the date of receipt of such order, prefer an appeal in writing to the accommodation appellate authority; and the said authority shall, after such enquiry as it may consider necessary, pass such orders on the appeal as it may think fit. On such appeal being preferred, the said authority may order stay of further proceedings in the matter pending decision on the appeal.

(e) (i) Every notice given by the landlord under clause (a) shall, in so far as it relates to any residential building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1).

(ii) If, in the case of a residential building governed by clause (b), the notice specifies that the residential building is required for the purposes mentioned in sub-clause (i) of that clause, the provisions of sub-section (3) shall apply as if the notice had been given by the landlord under sub-section (1)

immediately after the lapse of the period of seven days from the date of receipt by the landlord of the order passed by the authorised officer, or if an appeal has been preferred to the accommodation appellate authority against aforesaid by the landlord on the date of the order passed on the appeal.

(9) (a) (i) Any officer empowered by the Government in this behalf may summarily dispossess any landlord, tenant or other person occupying any, building in contravention of the provisions of this section or any landlord who fails to deliver to the Government possession of any building in accordance with the provisions of sub-section (5) and may take possession of the building including any portion thereof which may have been sub-let. The Government shall be deemed to be the tenant of such building with effect from the date of taking such possession.

(ii) Any such officer as is referred to in sub-clause (i) may summarily dispossess any officer, local authority or public institution continuing to occupy, or failing to deliver possession of, any building in respect of which the Government shall be deemed to be the tenant by virtue of this section, after the termination of his or its licence to occupy such building and take possession of the building including any portion thereof which may have been sub-let:

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) of sub-section (8) not less than seven days notice shall be given before action is taken under this sub-section.

(b) If free access to the building is not afforded to the officer empowered under sub-clause (i) of clause (a), he may at any time after sunrise and before sunset, and after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority or public institution liable to be summarily dispossessed under clause (a), shall pay to the Government-

(i) the fair rent payable for the building under provisions of this Act for the period of his occupation or possession thereof as described in that clause, and

(ii) the expenses, if any incurred by the Government in effecting such summary dispossession, as determined by them (which determination shall be final).

¹ [(d) (i) If the authorised officer who takes possession of the building under clause (a), is of the opinion that the building is not in a tenantable condition, he may prepare or cause to be prepared an estimate of the repairs necessary including white-washing to make the building tenantable and give notice to the landlord to carry out the repairs within a reasonable time;

(ii) If the landlord fails to make necessary repairs to the building within such reasonable time, the authorised officer may make such repairs including white-washing or allot the building subject to the condition that the allottee shall carry out the repairs including white-washing according to the aforesaid estimate and deduct the cost of such repairs from the rent payable to the landlord in such monthly instalments as may be specified by the authorised officer:

Provided that in no case such monthly instalment shall exceed one-half of the Monthly rent payable by the tenant"].

(10) Nothing contained in this section shall apply-

(a) to a residential building, the monthly rent of which does not exceed twenty-five rupees; or

(b) to a non-residential building, the monthly rent of which does not exceed fifty rupees; or

(c) to a residential building, a part only of which is occupied by the full owner and the whole or any portion of the remaining part of such building is let to any tenant; ¹ [" Provided that this clause shall not apply to any building, if-

(i) the portions occupied by the full owner and the tenant are self-contained and separate units;

(ii) the full owner does not actually occupy the building for residential purposes; or

(iii) the full owner is in actual occupation of another residential building; or"]

(d) to any building or buildings in the same commune owned by any company, association of firm, whether incorporated or not, and bona fide intended solely for the occupation of its officers, servants or agents.

Explanation.-In clause (c) " full owner" means a person entitled to the absolute proprietorship of the building.

² [" 4-A. Release of building -(1) A landlord may apply to the authorised officer for the release of the building in respect of which a notice has been given under sub-section(1) of section 4 or in respect of which, the Government are, under sub-section (5) of section 4 deemed to be the tenant if-

(a) in the case of a residential building, the landlord requires it for his own occupation or for the occupation of any member of his family and the landlord or the member of his family is not occupying any residential building of his own in the city, town or village concerned;

(b) in the case of a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, the landlord requires it for his own use or for the use of any member of his family and the landlord or the member of his family is not using any such building of his own in the city, town or village concerned;

(c) In the case of any non-residential building other than the non-residential building mentioned in clause (b), the landlord or any other member of his family requires it for the purpose of his business and the landlord or the member of his family does not occupy any such non-residential building of his own for the purpose of his business in the city, town or village concerned; or

(d) the building, whether residential or non-residential whose landlord is a religious, charitable, educational or other public institution, is required for the purpose of such institution.

(2) The authorised officer, may, if he is satisfied that the claim of the landlord is bona fide and reasonable make an order releasing the building subject to such conditions and restrictions as he may think fit and if he is not so satisfied, make an order rejecting the application made under sub-section(1)

(3) Any person who is aggrieved by an order passed by the authorised officer under sub-section (2) may, within fifteen days from the date of receipt of such order, prefer an appeal to the Government and the Government shall pass such order as they deem fit and on such appeal being preferred, the Government may order stay of further proceedings in the matter pending decision on the appeal.

(4) A building released in pursuance or an order made under sub-section (2) shall, within thirty days of the date of the receipt of the order or such further period as may be allowed by the authorised officer, be occupied by the landlord or by the member of his family for whose occupation the building was required to be released or shall be put to such use for which the release was obtained.

(5) Where a building released under sub-section (2) has not been occupied by the landlord of

1. Added by Act No. 8 of 1980.

2. Inserted by Act No. 8 of 1980.

by the member of his family or has not been put to such use for which the release was obtained within the period specified in sub-section(4), but is either let out or kept vacant the whole or any part of the building, or put to use for a purpose other than the one for which the release was obtained, such building shall be deemed to have become vacant from the date of the expiry of the period specified in sub-section(4) and the provisions of sub-sections(1),(3),(4),(5),(7) and (9) of section 4 shall apply to such buildings."]

Fixation of fair rent

¹ ["5. Fixation of fair rent- (1) The Controller shall on application made by the tenant or the landlord of a building and after holding such enquiry as he thinks fit, fix the fair rent for such building in accordance with the principles set out in the following sub-sections.

(2) The fair rent for any residential building shall be nine percent gross return per annum on the total cost of such building.

(3) The fair rent for any non-residential building shall be twelve per cent gross return per annum on the total cost of such building.

(4) The total cost referred to in sub-section(2) and sub-section(3) shall consist of the market value of the site in which the building is constructed, the cost of construction of the building and the cost of provision of any one or more of the amenities specified in Schedule I as on date of application for fixation of fair rent;

Provided that while calculating the market value of the site in which the building is constructed, the Controller shall take into account only that portion of the site on which the building is constructed and of a portion upto fifty per cent thereof of the vacant land, if any, appurtenant to such building, the excess portion of the vacant land, being treated as amenity.

Provided further that the cost of provision of amenities specified in Schedule I shall not exceed

(i) in the case of any residential building, fifteen per cent; and

(ii) in the case of any non-residential building, twenty-five per cent of the cost of site in which the building is constructed and the cost of construction of the building as determined under this section.

5. (a) The cost of construction of the building including cost of internal water-supply, sanitary and electrical installations shall be determined with due regard to the rates adopted for the purpose of estimation by the Public Works Department of the Government for the area concerned. The Controller may, in appropriate cases, allow or disallow an amount not exceeding thirty per cent of the cost of construction having regard to the nature of construction of the building.

(b) The Controller shall deduct from the cost of construction determined in the manner specified in clause (a), depreciation calculated at the rates specified in Schedule II."]

Change in fair rent in what cases admissible

6. (1) When the fair rent of a building has been fixed ¹ ["or refixed "] under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request:

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and the tenant in regard to any increase claimed under this sub-section shall be decided by the Controller.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed.

Provided that any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Controller.

² ["(3) Where the fair rent of any building has been fixed before the date of the commencement of the Pondicherry Building (Lease and Rent Control) (Amendment) Act, 1980, the landlord or the tenant may apply to the Controller to refix the fair rent in accordance with the provisions of section 5 and on such application, the Controller may refix the fair rent."]

Landlord not to claim or receive anything in exercise of fair rent or agreed rent

7.(1) Where the controller has fixed ¹ [or refixed] the fair rent of a building-

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like-sum in addition to such fair rent, or (ii) save as provided in section 6, anything in excess of such fair rent:

Provided that the landlord may receive, or stipulate for the payment of, an amount not exceeding one month's rent, by way of advance;

(b) save as provided in clause (a), any premium or other like-sum or any rent paid in addition to, or in excess of, such fair rent, whether before or after the date of commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after the date of such commencement, shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord:

³ [Provided that where before the fixation or refixation of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for the period commencing on the date of the application by the tenant or landlord under sub-section (1) of section 5 or sub-section (3) of section 6, as the case may be, and ending with the date of such fixation or refixation.] ³

1. Inserted by Act No. 8 of 1980.

2. Added by Act No. 8 of 1980 dated 3-7-1980.

3. Substituted by Act No. 8 of 1980 dated 3-7-1980.

(2) Where the fair rent of a building has not been so fixed-

(a) the landlord shall not claim, receive or stipulate for the payment of, any premium or other like-sum in addition to the agreed rent:

Provided that the landlord may receive, or stipulate for the payment of, an amount not exceeding one month's-rent, by way of advance;

(b) save as provided in clause (a), any sum paid in excess of the agreed rent, whether before or after the date of the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after the date of such commencement, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

¹ [Land lord liable to give receipt for rent or advance

8."(1) Every landlord who receives any payment towards rent or advance shall issue a receipt duly signed by him for the actual amount of rent or advance received by him] ¹

(2) Where a landlord refuses to accept or evades the receipt of any rent lawfully payable to him by a tenant in respect of any building, the tenant may, by notice in writing, require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant, to the credit of the landlord:

Provided that such bank shall be one situated in the Commune in which the building is situated or if there is no such bank in such Commune, the nearest bank.

Explanation.-It shall be open to the landlord to specify from time to time by written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may be subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission.

(5) If the landlord refuses to receive the rent remitted by money order under sub-section (4), the tenant may deposit the rent before the Controller and continue to deposit with him any rent which may subsequently become due in respect of the building.

Right of tenant to deposit rent in certain cases

9. (1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building, before the Controller in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building, before the Controller and in the same manner until the address of the landlord or his authorised agent becomes known to the tenant.

(2) The amount deposited under sub-section (3) or under sub-section (5) of section 8, or under

1. Substituted by Act No.8 of 1980 dated 3-7-1980.

sub-section (1) of this section may, subject to such condition as may be prescribed, be withdrawn by the person held by the Controller to be entitled to the amount on application made by such person to the Controller in that behalf.

(3) Where any **bona fide** doubt or dispute arises as to the person who is entitled to receive the rent for any building, the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Controller the circumstances under which such deposit was made by him and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Controller makes an order under clause (b) of sub-section (4), as the case may be.

(4) (a) The Controller to whom a report is made under sub-section (3) shall, if satisfied that a **bona fide** doubt or dispute exists in the matter, direct that, pending removal of the doubt or settlement of the dispute as aforesaid, the deposit be held by the authority concerned.

(b) If this Controller is not so satisfied, he shall forthwith order payment of the amount deposited to the landlord.

(5) Where the Controller passes an order under clause (a) of sub-section (4), any amount deposited under sub-section (3) may be withdrawn only by the person who is declared by a competent Court to be entitled thereto, or in case the doubt or dispute is removed by settlement between the parties, only by the person who is held by the Controller to be entitled to the amount or amounts in accordance with such settlement.

Eviction of tenants

10. (1) A tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of this section or sections 14 to 16:

Provided that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Controller shall decide whether the denial or claims is bona fide and if he sue for eviction of the tenant in a Civil Court and the Court may pass a decree for eviction on any of the grounds mentioned in the said sections, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease of that the claim is unfounded.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied-

(i) that the tenant has not paid or tendered the rent due by him in respect of the building, within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable, or

(ii) that the tenant has after the commencement of this Act without the written consent of the landlord-

(a) transferred his right under the lease or sub-let the entire building or any portion thereof, if the lease does not confer on him any right to do so, or

(b) used the building for a purpose other than that for which it was leased, or

(iii) that the tenant has committed or caused to be committed such acts of waste as are likely to impair materially the value or utility of the buildings, or

(iv) that the tenant has been convicted under any law for the time being in force of an offence of using the building or allowing the building to be used for immoral or illegal purposes, or

(v) that the tenant has been guilty of such acts and conduct which are a nuisance to the occupiers of other portions in the same building or of buildings in the neighbourhood, or.

(vi) that the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, or

(vii) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not **bona fide**,

the Controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satisfied, he shall make an order rejecting the application:

Provided that in any case falling under clause (i) if the Controller is satisfied that the tenant's default to pay or tender rent was not wilful, he may, notwithstanding anything contained in section 11, give the tenant a reasonable time, not exceeding fifteen days, to pay or tender the rent due by him to the landlord up to the date of such payment or tender and on such payment or tender, the application shall be rejected.

¹ [**Explanation:-** For the purpose of this sub-section, default to pay or tender rent shall be construed as wilful, if the default by the tenant in the payment or tender of rent continues after the issue of two months' notice by the landlord claiming the rent"].

(3) (a) A landlord may, subject to the provisions of clause (d), apply to the Controller for an order directing the tenant to put the landlord in possession of the building-

(i) in case it is a residential building, if the landlord requires it for his own occupation or for the occupation of ² ["any member of his family "] if he or ² [any member of his family] is not occupying a residential building of his own in the Commune concerned;

(ii) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own use or for the use of ² [any member of his family] and if he or ² [any member of his family] is not occupying any such building of his own in the Commune concerned;

(iii) in case it is any other non-residential building, if the landlord or ² [any member of his family] is not occupying for purposes of a business which he or ² [any member of his family] is carrying on a non-residential building of his own in the Commune concerned:

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument inter vivos shall not be entitled to apply under this clause before the expiry of three months from the date on which the instrument was duly executed:

Provided further that where a landlord has obtained possession of building under this clause, he shall not be entitled to apply again under this clause-

(i) in case he has obtained possession of a residential building for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building, for possession of another

1. Added by Act No.8 of 1980.

2. Substituted by Act No.8 of 1980.

non-residential building of his own.

(b) Where the landlord of a building whether residential or non-residential, is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller subject to the provisions of clause (d), for an order directing the tenant to put the institution in possession of the building.

(c) A landlord who is occupying only a part of a building, whether residential or non-residential may, notwithstanding anything contained in clause (a), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for residential purposes or for purposes of a business which he is carrying on, as the case may be.

(d) Where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period.

(e) The Controller shall, if he is satisfied that the claim of the landlord is bona fide, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application.

Provided that, in the case of an application under clause(c), the Controller shall reject the application the is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord:

Provided further that the controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

¹ [(3-A) (a) Where the landlord has been or is a member of the Armed Forces and-

(i) is released or has retired from service and the building is bona fide required for his residence ; or

(ii) is stationed at a place where on account of military exigencies, he cannot live with his family or dies on active duty and the building is **bona fide** required for the residence of his family, the Controller shall, on application made by the landlord or the member of his family, as the case may be, if he is satisfied that the claim of the landlord or the member of his family is **bona fide**, pass an order directing the tenant to put the landlord or the member of his family in possession of the building and if the Controller is not so satisfied, he shall make an order rejecting the application.

(b) Notwithstanding anything contained in clause (a), where the landlord or the member of his family produces a certificate from the prescribed authority under the Indian Soldiers (Litigation) Act, 1925 (Central Act IV of 1925), that the landlord is serving under special conditions within the meaning of section 3 of that Act, the application referred to in clause (a) shall be disposed of, as far as may be, within a period of one month and if the claim of the landlord or the member of his family is accepted, the Controller shall pass an order directing the tenant to put the landlord of the member of his family in possession of the building on such date as may be specified in the order which shall not be later than one month from the date of such order.

Explanation.-For the purpose of this sub-section, "member of the Armed Forces" means a person in the service of the Air Force, Army or Navy of the Union of India and includes a seaman and

1. Substituted by Act No.8 of 1980.

"seaman" means every person including a master, pilot or apprentice employed or engaged as a member of the crew of a ship or a sailing vessel to which the Merchant Shipping Act, 1958 (Central Act 44 of 1958), applies:

Provided that if a question arises whether any person is a member of the Armed Forces, such question shall be decided by the Controller and his decision shall be final.]

(3-B) (a) ¹ [Where a landlord who,-

(i) being a person in occupation of any residential premises allotted to him by the Central Government, State Government or any local authority, is required by, or in pursuance of any general or special order made by that Government or authority, to vacate such residential accommodation or in default, to incur certain obligations on the ground that he owns in the Union territory of Pondicherry a residential accommodation either in his own name or in the name of a member of his family, or

(ii) being a person in the service of such Government or authority, at any time, within one year prior to or within one year after the date of his retirement or after his retirement but within one year of the date of commencement of the Pondicherry Buildings (Lease and Rent Control) Amendment Act, 1987, whichever is later, applies to the Controller along with a certificate from the authority competent to remove him from service indicating the date of his retirement and an affidavit to the effect that he does not own and possess any other suitable residential accommodation in the local area in which he intends to reside, in the Union territory of Pondicherry, either in his own name or in the name of a member of his family, to recover possession of his residential building for his own occupation,-"; and there shall accrue,]

² [or, as the case may be, such] application to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether expressed or implied) custom or usage to the contrary, a right to recover immediately possession of any premises let out by him.

Provided that nothing in this section shall be construed as conferring a right on a landlord owning, in the Union territory of Pondicherry two or more dwelling houses, whether in his own name or in the name of a member of his family, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(b) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by clauses (a), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the premises by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract, agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent per annum.

(4) No order for eviction shall be passed under sub-section (3)-

1. Substituted by Act No.10 of 1987 dated 7-12-87.

2. Inserted by Act No.8 of 1980 dated 3-7-1980.

(i) against any tenant who is engaged in any employment or class of employment notified by the Government as an essential service for the purposes of this sub-section, unless the landlord is himself engaged in any employment or class of employment which has been so notified, or

(ii) in respect of any building which has been let for use as an educational institution and is actually being used as such, provided that the institution has been recognised by the Government or any authority empowered by them in this behalf so long as such recognition continues.

(5) (a) Where a landlord who has obtained possession of a building in pursuance of an order under ¹ [or sub-section (3-A) or sub-section (3-B)] does not himself occupy it within one month of the date of obtaining possession or having so occupied it, vacates it without reasonable cause within six months of such date, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building and the Controller shall make an order accordingly, notwithstanding anything contained in section 4.

(b) Where a tenant who is entitled to apply for possession under clause (a) fails to do so within one month from the date on which the right to make the application accrued to him, the Government or the authorised officer shall have power, if the building is required for any of the purposes, or for occupation by any of the officers specified in ² "sub-section (3) or sub-section (3-A) or sub-section (3-B)" of section 4 to give intimation to the landlord that the building is so required and thereupon the provisions of sub-sections (5) and (9) of section 4 shall apply to the building:

Provided that this clause shall not apply to a residential building the monthly rent of which does not exceed twenty-five rupees or to a non-residential building the monthly rent of which does not exceed fifty rupees.

(6) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(7) Where an application under sub-section (2) or sub-section (3) for evicting a tenant has been rejected by the Controller, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on any of the grounds mentioned in sub-section (2) or ² [sub-section (3) or sub-section (3-A) or sub-section (3-B):]

Provided that nothing in this sub-section shall be deemed to prevent a landlord who has made an application for evicting a tenant on any of the grounds mentioned in sub-section (2) or sub-section (3) from applying again, when the previous application is pending, to the Controller for evicting the tenant on any of the other grounds mentioned in sub-section (2) or sub-section (3).

(8) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the landlord shall, except with the previous written consent of the landlord, be entitled to apply for the eviction of the tenant.

PAYMENT OR DEPOSIT OR RENT DURING THE PENDENCY OF PROCEEDING FOR EVICTION

11. (1) No tenant against whom an application for eviction has been made by a landlord under section 10 shall be entitled to contest the application before the Controller under that section, or to prefer any appeal under section 23 against any order made by the Controller on the application unless

1. Inserted by Act No.8 of 1980.

2. Substituted by Act No.8 of 1980.

he has paid or pays to the landlord, or deposits with the Controller or the appellate authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building until the termination of the proceedings before the Controller or the appellate authority, as the case may be.

(2) The deposit of rent under sub-section (1) shall be made within the time and in the manner prescribed.

(3) Where there is any dispute as to the amount of rent to be paid or deposited under sub-section (1), the Controller or the appellate authority, as the case may be, shall, on application made to him either by the tenant or by the landlord and after making such enquiry as he deems necessary, determine summarily the rent to be so paid or deposited.

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Controller or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(5) The amount deposited under sub-section (1) may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him in that behalf to the Controller or the appellate authority, as the case may be.

Recovery of possession by landlord for repairs or for reconstruction of building in respect of which the Government shall be deemed to be the tenant

12. (1) Notwithstanding anything contained in this Act, on an application made by a landlord of a building in respect of which the Government shall be deemed to be the tenant, the authorised officer shall, if he is satisfied-

(a) that the building is **bona fide** required by the landlord for carrying out the repairs which cannot be carried out without the building being vacated, or

(b) the building is **bona fide** required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished, pass an order directing the allottee to deliver possession of the building to the landlord before a specified date.

(2) An order passed by the authorised officer under sub-section (1) directing the allottee to deliver possession of the building to the landlord shall be subject to such conditions and restrictions as may be prescribed.

(3) No order directing the allottee to deliver possession of the building shall be passed by the authorised officer under sub-section (1)-

(a) on the ground specified in clause (a) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to a authorised officer before the expiry of three months from the date of recovery of possession by the landlord or before the expiry of such further period as the authorised officer may, for reasons to be recorded in writing, allow, for re-allotment to any person named by the authorised officer, or

(b) on the ground specified in clauses (b) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially

commenced by him not later than one month, and shall be completed before the expiry of three months from the date he recovers possession of the entire building or before the expiry of such further period as the authorised officer may, for reasons to be recorded in writing, allow.

¹ [(3-A) (a) Any person aggrieved by an order passed by the authorised officer under sub-section (1) may, within fifteen days from the date of receipt of such order, prefer an appeal to the Government and the Government shall pass such order, including extension of time for vacating the building, as they deem fit.

(b) On such appeal being preferred, the Government may order stay of further proceedings pending decision on the appeal.]

(4) Notwithstanding an order passed by the authorised officer under clause (a) of sub-section (1) directing the allottee to deliver possession of the building, the Government shall be deemed to continue to be the tenant, but the landlord shall not be entitled to any rent for the period commencing on the date of delivery of possession of the building by the allottee to the landlord and ending with the date on which the building is offered to the authorised officer by the landlord in pursuance of the undertaking under clause (a) of sub-section (3).

(5) Nothing contained in this section shall entitle the landlord who has recovered possession of the building for repairs to convert a residential building into a non-residential building or a non-residential building into a residential building unless such conversion is permitted by the authorised officer at the time of passing an order under clause (a) of sub-section (1).

(6) If, after the allottee has delivered possession, the landlord fails to commence the work or repairs within one month from the date of such delivery or fails to complete the work before the expiry of three months from the date of such delivery or before the expiry of further period allowed under clause (a) of sub-section (3) or having completed the work fails to offer the building to the authorised officer, the authorised officer may suo motu or on application order the re-allotment of the building to any person named by him and on such order being made, the landlord and any other person who may be in occupation shall put the allottee in possession of the building.

Authorised officer to give notice to landlord in certain cases

13. (1) Where an order directing delivery of possession has been passed by the authorised officer under clause (b) of sub-section (1) of section 12 and the work of demolishing any material portion of the building has not been substantially commenced by the landlord within the period of one month in accordance with his undertaking under clause (b) of sub-section (3) of section 12, the authorised officer may give the landlord notice of his intention to re-allot the building to any person named by him. If within fifteen days from the date of receipt of such notice, the landlord does not offer the building to the authorised officer, the authorised officer may reallocate the building to any person named by him on the original terms and conditions and order the landlord to put such person in possession of the building.

² [(2) Where in pursuance of an order passed by the authorised officer under clause (b) of sub-section (1) of section 12, any building is totally demolished and a new building is erected in its place, all the provisions of this Act shall cease to apply to such new building for a period of five years from the date on which the construction of such new building is completed and notified to the local authority concerned.]

1. Inserted by Act No. 8 of 1980 dated 3-7-1980.

2. Substituted by Act No.8 dated 3-7-1980.

Recovery of possession by landlord for repairs or for construction

14. (1) Notwithstanding anything contained in this Act, but subject to the provisions of section 12 and 13, on an application made by a landlord, the Controller shall, if he is satisfied-

(a) that the building is **bona fide** required by the landlord for carrying out repairs which cannot be carried out without the building being vacated, or

(b) that the building is **bona fide** required by the landlord for the immediate purpose of demolishing if and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished, pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.

(2) No order directing the tenant to deliver possession of the building under this section shall be passed-

(a) on the ground specified in clause (a) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to the tenant, who delivered possession in pursuance of an order under sub-section (1) for his re-occupation before the expiry of three months from the date of recovery of possession by the landlord, or before the expiry of such further period as the Controller may, for reason to be recorded in writing allow; or

(b) on the ground specified in clause (b) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month and shall be completed before the expiry of three months from the date he recovers possession of the entire building or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow.

(3) Nothing contained in this section shall entitle the landlord who has recovered possession of the building for repairs to convert a residential building into a non-residential building or a non-residential building into a residential building unless such conversion is permitted by the Controller at the time of passing an order under sub-section (1).

(4) Notwithstanding an order passed by the Controller under clause (a) of sub-section (1) directing the tenant to deliver possession of the building, such tenant shall be deemed to continue to be the tenant but the landlord shall not be entitled to any rent for the period commencing on the date of delivery of possession of the building by the tenant to the landlord and ending with the date on which the building is offered to the tenant by the landlord in pursuance of the undertaking under clause (a) of sub-section (2).

(5) Nothing in this section shall entitle any landlord of a building in respect of which the Government shall be deemed to be the tenant to make any application under this section.

Tenant to re-occupy after repairs

15. (1) Where the landlord recovers possession under clause (a) of sub-section (1) of section 14, he shall, within two months before the date on which the work of repairs is likely to be completed, give notice, to the tenant of the date on which the said work will be completed. Within fifteen days from the date of receipt of such notice, the tenant shall intimate to the landlord his acceptance of the building offered for his re-occupation and if the tenant gives such intimation, the landlord shall, within thirty days from the date of completed of the work of repairs, put the tenant in possession of the building on the original terms and conditions. If the tenant fails to give such intimation, his right to re-occupy the building shall terminate.

(2) If after the tenant has delivered possession, the landlord fails to commence the work of repairs within one month from the date of such delivery, or fails to complete the work before the expiry of three months from the date of such delivery, or before the expiry of the further period allowed under clause (a) of sub-section (2) of section 14 or having completed the work fails to put the tenant in possession of the building in accordance with the provisions of sub-section (1), the Controller may, on the application of the tenant made within thirty days from the date of such failure, order the landlord to put the tenant in possession of the building on the original terms and conditions; and on such order being made the landlord and any person who may be occupation shall put the tenant in possession of the building.

Tenant to occupy if the building is not demolished

16. (1) Where an order directing delivery of possession has been passed by the Controller under clause (b) of sub-section (1) of section 14 and the work of demolishing any material portion of the building had not been substantially commenced by the landlord within the period of one month in accordance with his undertaking under clause (b) of sub-section (2) of section 14, the tenant may give the landlord notice of his intention to occupy the building the possession of which he delivered. If, within fifteen days from the date or receipt of such notice, the landlord does not put him in possession of the building on the original terms and conditions, the tenant may make an application to the Controller within eight weeks of the date on which he put the landlord in possession of the building. The Controller shall order the landlord to put the tenant in possession of the building on the original terms and conditions.

¹ [(2) Where is pursuance or an order passed by the Controller under clause (b) or sub-section (1) of section 14, any building is totally demolished and a new building is erected in its place, all the provisions of this Act shall cease to apply to such new building for a period of five years from the date on which the construction of such new building is completed and notified to the local authority concerned.]

Landlord not to interfere with amenities enjoyed by the tenant

17. ¹ [(1) No landlord shall without just or sufficient cause, cut off or withhold or cause to be cut off or withheld any of the amenities enjoyed by tenant or were in existence during the previous tenancy]

(2) A tenant in occupation of a building may if the landlord has contravened the provisions of this section make an application to the Controller complaining of such contravention.

(3) If the tenant satisfies the Controller that the amenities were cut off or withheld or caused to be cut off or with held ³ [* * *] the controller may pass an interim order directing the landlord to restore the amenities immediately pending the enquiry referred to in sub-section (4). ² [Provided that if the amenities are not restored within sevendays from the date of the interum order, the controller may permit the tenant to restore the amenities at his own cost and recover the cost of the expense incurred by the tenant in respect of restoration of such amenities from the rent payable to the landlord in such monthly instalments as may be specified by the controller]

(4) "Provided that if the amenities are not restored within seven days from the date of the laterin order, the Controller may permit the tenant to restore the amenities at his own cost and recover the cost of the expense incurred by the tenant in respect of restrovation of such amenities from the rent payable to the landlord in such monthly instalments as may be specified by the Controller".

Explanation.-An interim order may be passed under this sub-section without giving notice to the landlord.

1. Substituted by Act No.8 of dated 3-7-1980.
2. Added by Act No. 8 of 1980 dated 3-7-1980
3. Omitted by Act No. 8 of 1980 dated 3-7-1980

(4) If the Controller on enquiry finds that the tenant has been in enjoyment of the amenities ¹ [or that the amenities were in existence during the previous tenancy] and that they were cut off or withheld by the landlord without just of sufficient cause or if the landlord was in any way responsible for the amenities being cut off or withheld, he shall make an order directing the landlord to restore such amenities.

(5) The Controller may, in his discretion, direct that compensation not exceeding fifty rupees-

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the amenities or was in any way responsible for the amenities being cut off or withheld frivolously and vexatiously.

Explanation.- In this section, the expression "amenities" includes supply of water, electricity, passages, staircases, lights, lavatories, lifts, and conservancy or sanitary services.

Execution of orders

18. Every order made under sections 10, 12, 13, 14, 15, 16 and 17 and every order passed on appeal under section 23 or on revisions under section 25 shall be executed by the Munsif having jurisdiction over the area in which the building is situated and if there are more than one such Munsif by the Principal Munsif as if it were a decree passed by him:

Provided that an order passed in execution under this section shall not be subject to an appeal, but shall be subject to revision under section 25.

Decisions which have become final not to be reopened

19. ² [Any application under section 4-A or section 12, and any application under sub-section (2) or sub-section (3) or sub-section (3-A) of section 10 or under section 14,15, or 16 shall be summarily rejected by the authorised officer or the controller, as the case may be, if such application] raises between the same parties or between parties under whom they or any of them claim, substantially the same issues as have been finally decided or as purport to have been finally decided in a former proceeding under this Act.

Orders of Controller to be pronounced in open Court

20. Every order passed by a Controller under this Act shall be pronounced in open Court on the day on which the case is finally heard, or on some future day of which due notice shall be given to the parties.

Conversion into non-residential buildings

21. No residential building shall be converted into a non-residential building except with permission in writing of the Controller.

1. Inserted by Act No.8 of 1980 dated 3-7-1980.

2. Substituted by Act No.8 of dated 3-7-1980.

Failure by landlord to make necessary repairs

22 (1) If a landlord fails to make necessary repairs to the building within a reasonable time after notice is given-

(a) by the authorised officer in the case of a building in respect of which the Government shall be deemed to be the tenant under sub-section (5) of section 4;

(b) by the tenant in the case of any other building; the authorised officer aforesaid may, in the case referred to in clause (a), make such repairs or have them made by the allottee and deduct the cost thereof from the rent payable for the building or ask the allottee to make such deduction from the rent payable; and the Controller may, in the case referred to in clause (b), direct, on application by the tenant, that such repairs may be made by the tenant and that the cost thereof may be deducted by the tenant from the rent payable for the building:

¹ [(2) The landlord shall not, while making repairs render the building uninhabitable by digging up the floor or by removing any door or window or by causing any other damage to any part of the building].

Provided that the cost of repairs, and the deduction thereof which the authorised officer or the Controller, as the case may be, may authorise shall not exceed in any one year one-twelfth of the rent payable in respect of the building for that year.

Appeal

23. ² [(1). (a) Any person aggrieved by an order passed by the Controller may, within 15 days from the dated of such order, excluding the time taken to obtain a certified copy of the order, file an appeal in writing to the District Court.]

(b) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of such order, prefer an appeal in writing to the District Court having jurisdiction.

(c) In computing the fifteen days aforesaid, the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) on such appeal being preferred, the District Court may order stay of further proceedings in the matter pending decision on the appeal.

(3) The District Court shall call, for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

Explanation.- The ² [District Court] may, while confirming the order of eviction passed by the Controller, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The decision of the ² [District Court] and subject to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any court of law, except as provided in section 25.

1. Inserted by Act No. 8 of 1980 dated 3-7-1980.

2. Substituted by Act No.8 of dated 3-7-1980.

Costs

24. Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings before the Controller or the appellate authority referred to in section 23, shall be in the discretion of the Controller or the appellate authority, who shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose.

Explanation.- The appellate authority may set aside or vary any order passed by the Controller in regard to the costs of and incident to the proceedings before him.

Revision

25. ¹[25. Revision.- (1) The High Court may, on the application of any person aggrieved by an order of the appellate authority, call for and examine the record of the appellate authority, to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly.

(2) Every application to the High Court for the exercise of its power under sub-section (1) shall be preferred within one month from the date on which the order or proceeding to which the application relates is communicated to the applicant:

Provided that the High Court, may in its discretion, allow further time not exceeding one month for the filing of any such application, if it is satisfied that the applicant had sufficient cause for not preferring the application within the time specified in this sub-section].

Order under the Act to be binding on the sub-tenants

26. Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants who were made parties in the application for eviction but any person who became a sub-tenant after the date of the application for eviction shall be bound by the order of eviction and be evicted as if he were a party to the proceedings, provided that such order was not obtained by fraud or collusion.

Proceedings by or against legal representatives

27. (1) Any application made, appeal preferred, or proceedings taken, under this Act by or against any person, may in the event of his death, be continued by or against his legal representatives.

(2). Where any application, appeal or other proceeding could have been made, preferred or taken, under this Act, by or against any person, such application, appeal or other proceeding may, in the event of his death, be made, preferred or taken by or against his legal representatives.

1.Substituted by Act No.8 of 1980 dated 3-7-1980.

Summons to witness

28. Subject to such conditions and limitations as may be prescribed, the Controller may, in his discretion, issue summons to witness requiring them to attend in person to give evidence or to produce documents in their custody in connection with any proceedings before him.

Exemption

29. Notwithstanding anything contained in this Act, the Government may, subject to such conditions as they deem fit, by notification, exempt any building or class of buildings from all or any of the provisions of this Act.

Certified extracts from Property Tax Assessment Register

30. The Officer-in-charge of Property Tax Assessment Register shall, on application made in this behalf and on payment of two rupees per entry relating to each year, grant to the applicant a certified copy of the extract from the said Register showing the rental value of the building or buildings in respect of which application has been made relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act.

Landlord and tenant to furnish particulars

31. Every landlord and every tenant of a building shall be bound to furnish to the Controller or any person authorised by him in that behalf, such particulars in respect of the building as may be prescribed.

Penalties

32.¹ [(1) If any person contravenes any of the provisions of sub-sections (1), (2), (4) and (5) of section 4, sub-section (4) of section 4-A, clause (a) of sub-section (1) and clause (a) of sub-section (2) of section 7, sub-section (1) of section 8, sub-section (1) of section 17, section 21, sub-section (2) of section 22 or section 31, or any order under sub-section (3) or sub-section (3-A) of section 10, or sub-section (3) of section 17, or any of the conditions in the notification issued under section 29, he shall be punishable with fine which may extend to two thousand rupees.

(1-A) Any landlord or the member of his family, as the case may be, who, after obtaining possession of a building under sub-section (3) or sub-section (3-A) of section 10, does not occupy it within one month of his taking possession or having so occupied, vacates it without reasonable cause within six months of such date, shall be punishable with fine which may extend to two thousand rupees:];

(2) (a) Any landlord who after the allottee has vacated the building before the date specified in the order passed under clause (a) of sub-section (1) of section 12, fails to commence the work of

1.Substituted by Act No.8 of dated 3-7-1980.

repairs without reasonable excuse and any landlord or other person in occupation of the building who fails to comply with the order passed by the authorised officer under sub-section (6) of section 12, shall, on conviction, be punishable with fine which may extend to ¹ [two thousand rupees].

(b) Any landlord who recovers possession on the ground specified in clause (b) of sub-section (1) of section 12 and fails to carry out the undertaking referred to in clause (b) of sub-section (3) of the said section without any reasonable excuse or fails to comply with the conditions and restrictions prescribed under sub-section (2) of the said section or fails to comply with the order of the authorised officer under sub-section (1) of section 13 shall, on conviction, be punishable with fine which may extend to ¹ [two thousand rupees.]

(3) (a) Any landlord who after the tenant has vacated the building before the date specified in the order passed under clause (a) of sub-section (1) of section 14 fails to commence the work of repairs without reasonable excuse and any landlord or other person in occupation of the building who fails to comply with the order passed by the Controller under sub-section (2) of section 15 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(b) Any landlord who recovers possession on the ground specified in clause (b) of sub-section (1) of section 14 and fails to carry out the undertaking referred to in clause (b) of sub-section (2) of the said section without any reasonable excuse or fails to comply with the order of the Controller under sub-section (1) of section 16, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

Power to make rules

33. ² [(1) The Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.] ²

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) an matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act;

(c) the manner in which notices and orders under this Act shall be given or served;

(d) setting aside **ex-parte** orders and orders of dismissal for default passes under this Act;

(e) application for making legal representatives of deceased persons, parties to proceedings under this Act and the time within which such applications shall be preferred;

(f) the procedure to be followed in taking possession of a building and in disposing of the articles found therein at the time of taking possession; and

(g) the fee leviable in respect of applications and appeals under this Act.

(3) In making a rule under this section, the Government may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to one thousand rupees.

1. Substituted by Act No. 8 of 1980 dated 3-7-1980.

2. Substituted by Act 15 of 1970.

(4) All rules made and all notifications issued under this Act shall be laid, as soon as may be after they are made or issued, before the Legislative Assembly, Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which they are so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Indemnity

34. (1) No suit, prosecution, or other legal proceedings shall lie in any Court against any officer or servant of the Government or any person acting under his direction or aiding or assisting him-

(a) for, or on account of, or in respect of, any sentence passed or deemed have been passed or any decision given or deemed to have been given, or any act ordered or deemed to have been ordered or done or deemed to have been done by him in exercise of any jurisdiction or power purporting to have been conferred on him by or under this act; or

(b) for carrying out any sentence passed or decision given by any Court or other authority in exercise of any such jurisdiction or power as aforesaid.

(2) No suit or other legal proceeding shall lie against the Government for or on account of, or in respect of, any act, matter or thing whatsoever, purporting to have been done in pursuance of or under this Act.

Power to remove difficulties

35. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

¹"SCHEDULE-I

(See section 5)

AMENITIES

1. Air conditioner.
2. Lift.
3. Water cooler.
4. Electrical heater.
5. Frigidaire.
6. Mosaic flooring.
7. Side dadoos.
8. Compound walls.
9. Garden.
10. Over-head tank for water-supply.
11. Electric pump and motor for water-supply.
12. Play ground.
13. Badminton and Tennis courts.
14. Sun breakers.
15. Amenity referred to in the first proviso to sub-section (4) of section 5.
16. Usufructs, if any, enjoyed by the tenant.
17. Features of special architectural interest.

SCHEDULE-II

(SEE SECTION 5)

RATES OF DEPRECIATION

Type of building	Rate of depreciation per annum
(1)	(2)
1. Buildings built in lime mortar and in which teak has been used throughout	1 per cent.
2. Buildings built partly of brick in lime mortar and partly of brick in mud and in which teak has been used.	1 1/2 per cent.
3. Buildings built in brick in mud and in which country wood has been used.	2 per cent.
4. Buildings which are inferior to those of class 3 with brick in mud plastered walls and mud floor and in which cheap country wood has been used.	4 per cent.

1. Inserted by act No. 8 of 1980 dated 3-7-1980.

Explanation.- (1) The depreciation shall be calculated for each year on the net value arrived at after deducting the amount of depreciation for the previous year.

(2) The amount of depreciation shall in no case be less than ten per cent of the cost of the construction of the building.

(3) The actual depreciation of a building aged 'n' year is calculated by using the formula

$$P = \frac{A (100-r)^n}{100}$$

Where A = total cost of construction of the building.

r = rate of depreciation per annum.

n = age of the building (i.e., the number of years).

P = the final depreciated value of the building.

The amount of depreciation will be equal to ('A' - 'P') subject to a minimum of ten per cent of 'A'.

THE OATHS ACT, 1969
(Act No. 44 of 1969)

THE OATHS ACT, 1969
(Act No. 44 of 1969)

26th December, 1969

*An Act to consolidate and amend the law relating to judicial oaths and for certain other purposes.
Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:-*

1. Short title and extent :- (1) This act may be called the Oaths Act, 1969.

(2) It extends ¹ to the whole of India except the state of Jammu and Kashmir.

2. Saving of certain oaths and affirmations:- Nothing in this Act shall apply to proceedings before courts martial or to oaths, affirmations or declarations prescribed by the Central Government with respect to members of the Armed Forces of the Union.

3. Power to administer oaths:- (1) The following courts and persons shall have power to administer, by themselves, or subject to the provisions of sub-section (2) of Sec 6, by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties imposed or in exercise of the powers conferred upon them by law, namely :-

(a) all courts and persons having by law or consent of parties authority to receive evidence:

(b) The commanding officer of any military, naval, or air force station or ship occupied by the Armed Forces of the Union, provided that the oath or affirmation is administered within the limits of the station.

(2) Without prejudice to the powers conferred by sub-section (1) or by or under any other law for the time being in force, any Court, Judge, Magistrate or person may administer oaths and affirmations for the purpose of affidavits, if empowered in this behalf-

(a) by the High Court, in respect of affidavits for the purpose of judicial proceedings: or

(b) by the State Government, in respect of other affidavits.

4. Oaths or affirmations to be made by witnesses, interpreters and jurors:- (1) Oaths or affirmation shall be made by the following persons, namely:

(a) all witnesses, that is to say, all persons who may lawfully be examined or given, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence:

(b) interpreters of questions put to, and evidence given by, witnesses, and

(c) jurors.

1. This Act enforced in the State of Sikkim, w.e.f 1 st September, 1984, vide S.O.649(E), dated 24th August, 1984.

Provided that where the witness is a child under twelve years of age, and the Court or person having authority to examine such witness is of opinion that, though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of Sec.5 shall not apply to such witness: but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth.

(2) Nothing in this section renders it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, unless he is examined as a witness for the defence, or necessary to administer to the office interpreter of any court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

5. Affirmation by person desiring to affirm:- A witness, interpreter or juror may instead of making an oath, make an affirmation.

6. Forms of oaths and affirmations:- (1) All oaths and affirmations made under Sec.4 shall be administered according to such one of the forms given in the schedule as may be appropriate to the circumstances of the cases:

Provided that if a witness in any judicial proceeding desires to give evidence on oath or solemn affirmation in any form common amongst, or held binding by persons of the class to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, notwithstanding anything heretofore contained, allow him to give evidence on such oath or affirmation.

(2) All such oaths and affirmations shall, in the case of all courts other than the Supreme Court and the High Courts, be administered by the presiding officer of the Court himself, or, in the case of a Bench of Judge or Magistrates by any one of the Judges or Magistrates, as the case may be.

7. Proceedings and evidence not invalidated by omission of oath or irregularity:- No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in administration of any oath or affirmation or in the form in which it is administered shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

8. Persons giving evidence bound to state the truth:- Every person giving evidence on any subject before any Court or person hereby authorised to administer oaths and affirmations shall be bound to state the truth on such subject.

9. Repeal and saving:- (1) The India Oaths Act, 1873 (10 of 1873) is hereby repealed.

(2) Where, in any proceeding pending at the commencement of this Act, the parties have agreed to be bound by any such oath or affirmation as is specified in Sec. 8 of the said Act, the, notwithstanding the repeal of the said Act, the provisions of Secs. 9 to 12 of the said Act shall continue to apply in relation to such agreement as if this Act had not been passed.

THE SCHEDULE
(See Sec.6)

FORMS OF OATHS OR AFFIRMATIONS

Form No.1 (witnesses):-

I do swear in the name of GOd that what I shall state shall be truth, the whole truth and nothing but the
solemnlyaffirm
truth.

Form No. 2 (Jurors)

I do swear in the name of God that I will well and truly try and true deliverance make between the
solemnlyaffirm
State and the Prisoner(s) at the bar, whom I shall have in charges, and true verdict give according to the evidence.

Form No.3 (Interpreters):-

I do swear in the name of GOD that I will well and truly interpret and explain all questions put to and
solemnlyaffirm
evidence given by witnesses and tramsalate correctly and accurtely all documents given to me for translation.

Form No.4 (Affidvits):-

I do swear in the name of God that this is my name and signature (or mark) and that the contents of
Solemnlyaffirm
this my affidavit are true.

THE PONDICHERRY SETTLEMENT ACT, 1970

(Act No.28 of 1970)

THE PONDICHERY SETTLEMENT ACT, 1970

(Act No.28 of 1970)

28th October, 1970.

AN ACT

to provide for the settlement of lands and assessment there on in the Union territory of Pondicherry and for the preparation of land records and for matters connected there with or ancillary thereto.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short Title, extent and commencement

1. (1) This Act may be called the Pondicherry Settlement Act, 1970.

(2) It extends to the whole of the Union territory of Pondicherry.

(3) It shall come into force on such ¹ date as the Government may, by notification, appoint and different dates may be appointed for different areas.

Definitions

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

(a) "assessment" means the land revenue assessment fixed under the settlement made in accordance with the provisions of this Act;

(b) "Collector" means the chief officer in charge of the revenue administration of the Union territory of Pondicherry, and includes in relation to any function to be performed by the Collector under this Act, such other officer not below the rank of a gazetted officer as the Government may, by notification, appoint for the purpose;

(c) "Commune" means a commune constituted under French Decree dated 12th March, 1880;

(d) "Director" means the Director of Settlement appointed under sub-section (1) of section 3;

(e) "fasli" means the year commencing with 1st July in any year and ending with the 30th June of the year next following;

1. The Act came into force on the 11th day of January 1971, *Vide* Notification-I in Gazette No.1 dated 5-1-1971.

(f) "Government" means the Administrator appointed by the President under article, 239 of the Constitution;

(g) "holding" means a portion of land held by a person either singly or jointly with one or more persons;

(h) "manyam land" means land registered as manyam land in the revenue accounts in favour of any religious, charitable or educational institution or in the name of any individual for rendering any specific service to any particular community or villagers in common and for which land tax or land revenue, as the case may be is levied under the law in force;

(i) "notification" means a notification issued by the Government or any officer authorised by it in this behalf and published in the Official Gazette;

(j) "prescribed" means prescribed by rules framed under this Act;

(k) "registered holder" means a registered holder as defined under the Pondicherry Survey and Boundaries Act, 1967 (Act 8 of 1967);

(kk) "Secretary" means the Secretary to the Government of Pondicherry in-charge of the Department of Revenue and Disaster Management;' *

(l) "settlement" means the result of the operations conducted in a zone in order to determine the land assessment;

(m) "Settlement Officer" means an officer appointed by the Government under sub-section (2) of section 3 and includes an officer empowered under the Act to perform the functions of a Settlement Officer;

(n) "Union territory" means the Union territory of Pondicherry; and

* Amended vide Act No.5 of 2006, dt.30-10-2006

CHAPTER II

OFFICERS, THEIR POWERS, DUTIES AND FUNCTIONS

Director and Settlement Officers

3. (1) The Government may appoint a Director to carry out the settlement operations and to perform the duties and discharge the functions assigned to him by or under this Act.

(2) The Government may appoint one or more Settlement Officers to perform the duties and discharge the functions assigned to them by or under this Act.

(3) Every Settlement Officer shall be subordinate to the Director who shall have power to cancel or revise any of the orders, acts of proceedings of the Settlement Officer.

Power to take evidence on oath, etc.

4. The Director and the Settlement Officer shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of document;
- (iii) receiving evidence on affidavit;
- (iv) issuing commissions for the examination of witnesses or for local investigation;

and any proceeding before the Director or the Settlement Officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and for the purposes of section 196, of the said Code.

Power to enter upon land

5. The Director, Settlement Officer or any of the subordinates of such officers may enter upon any land with such other officers and persons as he considers necessary and make a survey and take measurements thereof or do any other act which he considers necessary for carrying out the purposes of this Act.

Provided that no person shall enter into any land, building or upon any closed court or garden attached to a dwelling house unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours notice and in making such entry due regard shall be had to the special and religious sentiments of the occupier.

CHAPTER III

SETTLEMENT AND ASSESSMENT

Settlement and resettlement

6. (1) The Government may, at any time, direct a settlement in respect of any land for which survey operations have been taken up under the provisions of the Pondicherry Survey and Boundaries Act, 1967 (Act 8 of 1967).

(2) The Government may also direct at any time a fresh settlement (hereinafter referred to as resettlement) of the assessment of such land:

Provided that no enhancement of assessment shall take effect before the expiration of the settlement for the time being in force.

Determination of assessment

7. (1) The assessment on all lands in respect of which a settlement or resettlement has been directed under section 6 shall be determined by dividing the land to be settled into groups and sub-dividing each group into classes and fixing the rates for each group or class, as the case may be.

(2) The groups and classes shall ordinarily be formed on a consideration of the following factors, namely:—

- (a) soil and physical configuration;
- (b) yield of principal crops and their prices;
- (c) facilities of irrigation and rainfall;

Provided that, if deemed necessary, the following additional factors may also be taken into consideration for forming groups or classes, namely:—

- (a) marketing facilities;
- (b) agricultural resources;
- (c) communications;
- (d) population and supply of labour;
- (e) wages and ordinary expenses for cultivation of principal crops; and
- (f) sale value of lands used for agriculture.

(3) The assessment of individual survey numbers and subdivisions shall be based on the rates fixed for the respective groups and classes.

Manner of making settlement or resettlement

8. (1) In making a settlement or resettlement, the Settlement Officer shall-

- (a) divide the lands to be settled into groups and classes; and
- (b) fix the rates of assessment for each group or class.

(2) Before lands are divided or rates fixed under sub-section (1), the Settlement Officer shall hold such enquiry as he considers necessary for the purpose and in such manner as may be prescribed

(3) In fixing the rates according to sub-section (1), regard shall be had to the cost of agricultural land, to the profits of agriculture, consideration paid for leases, sale prices of land and the principal moneys on mortgages, and in the case of non-agricultural land to the value of the land for the purposes for which it is held.

(4) The Settlement Officer shall submit to the Government through the Director a report (hereinafter referred to as the Scheme Report) containing proposals for settlement in respect of each zone.

(5) The Government shall, after considering the Scheme Report and the comments thereon, if any, of the Director, approve the Scheme Report with or without modification.

(6) No Scheme Report approved by the Government under sub-section (5), shall be brought into force unless it has been laid before the Legislative Assembly of Pondicherry and has been approved by a resolution of that Assembly either with or without modification, but upon such approval being given, the Scheme Report shall be published in the Official Gazette in the form in which it has been so approved.

(7) The Government, while publishing the Scheme Report under sub-section (6), shall also specify the fasli from which the settlement covered by the Scheme Report shall be introduced by Settlement Officer.

Term of settlement and reduction, suspension or remission of assessment

9. (1) A settlement introduced under section 8 shall remain in force for a period of thirty years:

Provided that, when, in the opinion of the Government, a fresh settlement at the expiration of thirty years is inexpedient or has for any cause been delayed, the Government may extend the term of the settlement for the time being in force for such period as it may think fit.

(2) Notwithstanding anything contained in sub-section (1), the Government may, in accordance with general or special orders made in this behalf, grant reduction, suspension or remission in whole or in part of the assessment in any area in any year due to failure of crops, floods, or any other natural calamity or any reason whatsoever.

Registration of porambokes

10. All lands at the disposal of the Government and all Government lands which are in the possession and enjoyment of the Communes on the date of commencement of this Act and which are

used or which may be required for communal, public or Government purposes shall be registered as porambokes during the settlement:

Provided that such of the Government lands, as are at the disposal of the Communes for remunerative purposes and assessed to land tax before the commencement of this Act shall be registered in the holding of the respective Communes on such terms and conditions as may prescribed.

Liability for payment of assessment to Government

11. Every registered holder shall, for each fasli commencing from the fasli in which settlement is introduced, be primarily liable to pay to the Government in respect of all lands included in his holding, the assessment fixed under this Act:

Provided that the payment of assessment under this section shall not affect any right or obligation of religious, charitable or educational institutions in respect of manyam lands.

Power to impose additional assessment or levy on trees

12. Notwithstanding anything contained in this Act, the Government may, at any time during the settlement for the time being in force.-

(a) impose additional assessment, not exceeding twice the amount of highest wet rate of assessment in force, for additional advantages accruing to any land on which wet crops are or may hereafter be raised, from water received on account of execution of fresh irrigation works or improvements effected by the Government in existing irrigation works completed after the introduction of the settlement, or by intercepting surface rain water or water flowing to any recognised source of irrigation;

(b) impose whatever additional assessment or ground rent on all sites of buildings and the appurtenances thereto situated within the limits of Municipal towns and other areas declared as towns by a notification and on all lands used for non-agricultural purposes, whether built upon or not, similarly situated, at a specified rate not exceeding Rs.62.50 P. per hectare for the purpose.

(c) impose a levy on all fruit bearing trees standing on porambokes, waste and other lands at the disposal of the Government, at a rate not exceeding Rs.10 per tree, such levy being payable to the Government by persons who enjoy the benefits arising out of such trees.

CHAPTER IV

LAND RECORDS

Settlement Register and Register of Rights

13. (1) The Settlement Officer shall, for every village or for every such local area as may be specified in this behalf by the Government by a notification, prepare:—

(a) a Settlement Register : and

(b) a Register of Rights, showing the consolidation of all the lands in the village or local area, holding-wise.

(2) The Settlement Register and the Register of Rights shall be prepared on the basis of survey records in such language and in such form and manner as may be prescribed and shall include the following particulars:-

- (i) survey number and subdivision of the land;
- (ii) the extent of land and assessment due thereon;
- (iii) the name of the registered holder;
- (iv) the name of the tenant, if any, cultivating the land; and
- (v) such other particulars as may be prescribed.

Procedure for finalisation of the Register of Rights

14. (1) As soon as may be after the completion of the preparation of the Register of Rights for each village or local area, the Settlement Officer shall send to every person whose name is entered in the said register an extract of the entries relating to him and inform him of the date on or before which he should file his objections, if any, with the officer specified in this behalf by the Settlement Officer and such date shall also be published by notification and in such manner as may be prescribed.

(2) Any person aggrieved by the entries in the Register of Rights either on the ground that the entry in respect of particulars relating to him is incorrect or on the ground that his name or other particulars relating to the land which has been let for cultivation and in which he has interest either as registered holder or tenant have been omitted to be included in the said Register may file his objections containing such particulars as may be prescribed and shall be accompanied by the documents relied on by the objector as evidence in support of his claim.

(3) On the expiry of the period allowed for filing objections, the Settlement Officer shall-

(i) if no objection has been filed with him, finalise the Register of Rights after making such enquiry as he deems fit in the village or local area concerned; or

(ii) if objections have been received by him, fix a date for enquiry and enquire into the objections after giving sufficient notice to the objectors and other persons interested and pass such order as he deems fit together with brief reasons therefor, and finalise the Register of Rights after making alterations, if necessary, on the basis of orders passed by him.

(4) The enquiry under sub-section (3) shall be conducted in such manner as may be prescribed.

Publication of approved Register of Rights and revision of Settlement Register

15. (1) As soon as may be after the finalisation of the Register of Rights, the Settlement officer shall publish it in the manner prescribed and the Register so published shall be called the approved Register of Rights.

(2) The Settlement Officer shall revise the Settlement Register on the basis of the approved Register of Rights.

(3) The extract of the relevant entries of the approved Register of Rights, duly certified by the prescribed authority, shall be admissible in evidence before any court or tribunal.

Modification or inclusion in the approved Register of Rights

16. (1) Where any person claims that in respect of any land already included in the approved Register of Rights any modification is required in respect of the entries in the said register, either by reason of death of any person or by reason of transfer of interest or by reason of any other subsequent change in the holding, he shall apply to such officer as may be specified in this behalf by the Collector, for modification of the relevant entries in the approved Register of Rights.

(2) An application under sub-section (1) shall contain such particulars as may be prescribed and shall be accompanied by documents relied on by the applicant as evidence in support of his claim.

(3) The officer specified under sub-section (1) shall, after following such procedure as may be prescribed and after giving the person or persons interested in the land to which the particular entry relates an opportunity of being heard, pass such orders as he deems fit, either rejecting or allowing the claims made in the application and in the event of the claim being allowed the Register of Rights shall be modified accordingly.

(4) Every order passed under sub-section (3) shall contain brief reasons therefor.

Person acquiring by succession etc., to furnish information

17. (1) Any person acquiring by succession, survivorship inheritance, partition, purchase, gift, mortgage, lease or otherwise any right in a land or where such person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall report in writing his acquisition of such right to such officer as may be specified in this behalf by the Collector, within three months from the date of such acquisition and the said officer shall at once give a written acknowledgment of the receipt of the report to the person making it:

Provided that any person acquiring the right by virtue of a registered document shall be exempted from the obligation to report to the said officer.

(2) Any person who fails to make a report as required by sub-section (1) shall be liable to pay such penalty not exceeding twenty-five rupees as may be fixed by the Collector and the amount payable as penalty shall be recoverable as an arrear of land revenue:

Provided that no penalty shall be imposed under this sub-section without giving to the person concerned a reasonable opportunity of being heard.

Procedure on acquisition of right through documents registered

18. No document by virtue of which any person acquires a right in any land as registered holder, occupant, owner, mortgagee, lessee or tenant or assignee, of the rent or revenue thereunder shall be registered under the Indian Registration Act, 1908 (12 of 1908), unless the person liable to pay the registration fees also pays to the Registering authority such fees as may be prescribed for making the necessary entries in the approved Register of Rights and other connected registers and on the registration of such document the registering authority shall make a report of the acquisition of the right to the officer specified by the Collector under sub-section (1) of section 17 in the manner prescribed.

Register of Mutations

19. (1) There shall be maintained for every village a Register of mutations in such form as may be prescribed.

(2) On receipt of a report under sub-section (1) of section 17 or under section 18, the officer specified by the Collector under sub-section (1) of section 17 shall correct the entries in the approved Register of Rights after making such enquiries as are necessary, and after hearing objections, if any. Any such correction made shall be communicated by the said officer to all persons who from the Register of Rights or the Register of Mutations appear to be interested in the mutation and to any other person whom the said officer has reason to believe to be interested therein.

(3) The entries effected in the approved Register of Rights in accordance with sub-section (2) shall be tested and certified by such officer as may be specified by the Collector in this behalf.

Certified copies

20. Certified copies of extracts or entries in the approved Register of Rights and the Settlement Register may be granted to any person interested therein by such officer and on payment of such fees as may be prescribed.

Appeal

21. (1) Any person aggrieved by any order made under this Act may appeal,—

(i) if such order is made under clause (ii) of sub-section (3) of section 14, to the Director;
and

(ii) if such order is made under sub-section (3) of section 16 or in the case of a correction made under sub-section (2) of section 19, to the Collector.

(2) Every appeal under sub-section (1) shall be preferred within thirty days of the date of receipt of order appealed against and the Director or the Collector, as the case may be, after giving the parties concerned an opportunity of being heard, pass such order as he deems fit.

(3) Every order made by the Director or the Collector shall, subject to section-22, be final.

Revision

22. The Secretary may, of his own motion or on the application of any person affected, call for and examine the record of the appellate authority in respect of any proceedings under section 21 and pass such order as he may deem fit:

Provided that the Secretary shall not pass any order prejudicial to any person unless he has been given a reasonable opportunity of being heard.**

** Amended vide Act No.5 of 2006, dt.30-10-2006

CHAPTER V

MISCELLANEOUS

Correction of mistakes in records

23.(1) The Director or the Settlement Officer may either of his own motion or on the application of any person—

(a) if he is satisfied that a *bonafide* mistake has been made in regard to any decision or proceedings under this Act, make or cause to be made the necessary correction thereon;

(b) at any time correct or cause to be corrected any clerical or arithmetical mistake in any such decision or proceeding.

(2) The Collector may, at any time during the currency of the settlement, correct any error in the area or assessment of any Survey number or sub-division due to a mistake of survey or arithmetical miscalculation:

Provided that no arrears of land revenue accruing to the Government or refund thereof to the registered holder shall become payable by reason of such correction.

Delegation of powers

24. The Government may, by notification, direct that any power or function exercisable by the Settlement Officer under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions as may be specified in such notification, be exercisable also by such other officer as may be specified in such notification.

Bar of suits in Civil Courts

25. (1) No suit shall lie in any civil court to set aside or modify any assessment made under this Act.

(2) Except as otherwise provided in this Act, the decision of any authority or officer under this Act shall be final and no civil court shall have jurisdiction to decide or deal with any question which by or under this Act is required to be decided or dealt with by the authorities or officers under this Act.

Protection of action taken in good faith

26. No suit, prosecution or other legal proceedings shall lie against the Government, the Director, the Settlement Officer, or any other officer empowered by or under this Act for anything which is, in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Power to make rules

27. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the manner of holding enquiry under sub-section (2) of section 8;
- (b) the terms and conditions subject to which the lands in the holding of the communes shall be registered under section 10;
- (c) the language, form and the manner in which the records shall be prepared and such other particulars which the record shall contain under sub-section (2) of section 13;
- (d) the manner in which the notification under sub-section (1) of section 14 shall be published;
- (e) the particulars to be given while filing the objections under sub-section (2) of section 14;
- (f) the manner of conducting enquiry under sub-section (4) of section 14;
- (g) the manner in which the Register of Rights shall be published under sub-section (1) of section 15;
- (h) the particulars to be given in an application under sub-section (2) of section 16;
- (i) the procedure to be followed by the officer under sub-section (3) of section 16;
- (j) the fees to be paid for making entries in the approved Register of Rights and the manner in which the report shall be made by the registering authority under section 18;
- (k) the form of the Register of Mutations under sub-section (1) of section 19;
- (l) the officer by whom and the fees on payment of which certified copies may be granted under section 20; and
- (m) any other matter which under this Act is to be, or may be, prescribed.

(3) All rules made under this Act, shall, as soon as may be after they are made, be laid before the Legislative Assembly of Pondicherry while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid, or the sessions aforesaid, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Amendment to Act 8 of 1967

28. In the Pondicherry Survey and Boundaries Act, 1967 (Act 8 of 1967), Chapter III (sections 15 to 23 both inclusive) shall be deleted.

Certain assessments to continue

29. Notwithstanding anything contained in this Act all assessment rates in force at the commencement of this Act shall be deemed to have been determined and introduced in accordance with the provisions of this Act and shall remain in force until the introduction of assessment rates under this Act and such rates may be introduced at any time after the commencement of this Act.

Repeal and savings

30. (1) As from the date of commencement of this Act, all laws in force in the Union territory including the Deliberations dated 13th November, 1910 and 11th December, 1912, the Decree dated 27th June, 1912 and the Arrete dated 21st January, 1910, in so far as they make provisions for matters concerned by this Act, shall stand repealed.

(2) The repeal by sub-section (1) shall not affect—

- (a) the previous operation of any such law or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any such law; or
- (c) any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against any such law; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such fine, penalty, forfeiture or punishment may be imposed as if this section had not been in force.

(3) Subject to the provisions of sub-section (2), anything done or any action taken, including any appointment made, notification, order instruction or direction issued or any rule or form framed under any such law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

Power to remove difficulty

31. If any difficulty arises in giving effect to the provisions of the Act, the Government may, by general or special order, do anything not inconsistent with such provisions which appear to the Government to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made under the section after the expiration of two years from the publication of this Act in the Official Gazette.

**SCHEME REPORT FOR THE
SETTLEMENT OF VILLAGE SITES
(NATHAM) IN PONDICHERRY AND
KARAIKAL REGIONS**

SCHEME REPORT FOR THE SETTLEMENT OF VILLAGE SITES (NATHAM) IN PONDICHERRY AND KARAIKAL REGIONS

Scheme Report for effecting land revenue settlement in respect of non-agricultural lands in village site (Natham) in Pondicherry and Karaikal regions of the Union Territory of Pondicherry submitted by the Settlement Officer, Pondicherry under section 8 (4) of the Pondicherry Settlement Act, 1970 (Act 28 of 1970).

I. INTRODUCTORY :

The object of the settlement now undertaken is to determine the assessment on all lands covered by housesites, huts or houses and appurtenance thereto, collectively going by the nomenclature of "village site" or "natham" and which are non-agricultural in character. These lands are described in the ex-French Revenue records as "Manais" or "Manaimappus" and they are not at present subjected to levy of land tax. Their classification in those records was 'poramboke' (colonie, commune, habitation etc.). They are not covered by the Scheme Reports under the Pondicherry Settlement Act, 1970 submitted by the Settlement Officer previously as those reports related to the settlement of the agricultural lands only in the respective regions of Pondicherry and Karaikal. The Planning Commission approved subsequently a scheme for the settlement of the lands comprised in the "natham" as described above at an estimated outlay of Rs. 6.70 lakhs during the Fifth Plan period.

2. The non-agricultural lands in the Municipal towns of Pondicherry, Karaikal and Yanam are outside the scope of this Report as they will be covered by another similar scheme under the Fifth Five Year Plan going by the name of "Detailed Town Survey". This latter scheme has also been approved by the Planning Commission for implementation in the Fifth Plan period.

II. FEATURES OF SETTLEMENT :

3. The principal features of the scheme of "natham" settlement are,-

i) to survey each housesite and its appurtenance, if any as a separate holding and to prepare measurement sketches therefor and fix the land revenue due on it whether built upon or not with reference to the provisions contained in section 8 (3) of the Pondicherry Settlement Act, 1970, i.e., treating it as a non-agricultural land.

ii) to prepare the records prescribed in the Settlement Act, viz., the Settlement Register and the Register of Rights as provided for in section 13 (1) of the Act in respect of the above said lands.

4. Lands which are used or which may be required for communal, public or Government purposes will be assigned an appropriate "poramboke" classification such as overhead tank, community hall, school, road, street, etc., and no assessment will be fixed on those lands.

III. FIXATION OF RATES OF ASSESSMENT :

5. Section 8 (3) of the Act referred to above states that in fixing the rates of assessment, regard shall be had to the value of the land for the purposes for which it is held. For this purpose, the lands will be divided into groups and further divided into classes under those groups. Non-agricultural lands fall broadly into four categories by reason of the use to which they are put and the value of the lands differs from category to category, depending on the particular use to which they are put. The categories are,-

- i) lands used for residential purposes
- ii) lands used for commercial purposes, such as shops, tea-stalls, etc.;
- iii) lands used for industrial purposes, such as rice mills, soda factory, etc., where the process of producing any article therein is carried on with the aid of power;
- iv) other lands, not falling under any of the categories (i) to (iii) above and which are used as private schools, bajan temples, recreation clubs, etc.

6. The Union territory of Pondicherry is by and large a predominantly agricultural area with a small number of villages (129). The living conditions in the villages do not differ appreciably from village to village with the exception of Ariyur which is perhaps the only village which can claim to be put on the industrial map of the territory. Notwithstanding the homogeneity of living conditions in almost all the villages, small variations are however, to be found in some urban and semi-urban areas where the value of the lands is higher than those in other villages wholly rural in character. This is because of existence of public offices, educational and communication facilities, markets, cinemas, hotels, etc., in such areas attracting a fairly large floating population. The Headquarters of the commune panchayats and of the sub-taluk offices can be said to be of such an urban or semi-urban character. The villages in the regions are accordingly proposed to be divided into the following groups :-

GROUP I - Predominantly urban and semi-urban areas like head-quarters of commune panchayats and of the Deputy Tahsildars and Ariyur industrial area.

GROUP II - All areas other than those included under Group-I.

NOTE : The Settlement Officer will have power, however, to the grouping of any other village for reasons to be recorded in writing and subject to the approval of the Director of Survey and Settlement.

7. The lands in the villages included in each group will be divided into four classes mentioned in para. 5 above, depending on the use to which they are put at the time of their settlement. For ascertaining the value of the lands, sales statistics were gathered in the Sub-Registrar offices. Sales of house sites in rural areas are scarce because in most of the cases the lands pass on to the family members themselves (i.e.) from father to son and so on, and a few cases of sales that have been registered are largely confined to sales of petty extents to needy persons or to clear debts and similar contingencies. The needy purchasers do not mind paying a few rupees more than what the site will ordinarily fetch, if they were agricultural lands. On the other hand sales to clear debts fetch lower prices being sales under "duress". On the basis of those sales it may not be safe to value the lands for assessment purposes. Further there have been no sales of industrial or commercial sites as such in these areas. For these reasons, the sales statistics do not serve as an accurate guide for determining the value of the different categories of non-agricultural lands mentioned above. Enquiries were made of village officers as also leading people in several communes in the matter. Even here the information gathered was not quite helpful as there was no rationale in their estimates. However, on the basis of the data gathered from the Sub-Registry offices and from local enquiries, the average value of residential sites in Villianur, Bahour, Arianakupam and Ariyur villages of Pondicherry region is Rs. 63,537 per hectare while that in the commune head-quarters of Neravy, Kottucherry, Thirunallar, T.R. Pattinam and Nedungadu of Karaikal region is Rs. 37,500 per hectare. It is proposed to adopt their values as Rs. 60,000 and Rs. 30,000 in Pondicherry and Karaikal region respectively. Lands used for commercial purposes will be estimated at nearly 1/3 more than the residential lands and industrial sites will be estimated at twice the value of the residential sites. As regards the lands used for other purposes, there is no element of profit involved in their use and naturally their value will be less than those used for residential purposes. Their value is therefore proposed to be adopted as 1/2 that of residential sites.

8. It is proposed to value the lands under Group II at 2/3rd of the value adopted for the lands placed under Group I i.e., at Rs. 40,000 and Rs. 20,000 for Pondicherry and Karaikal regions respectively.

9. The value of the different categories of the lands, will therefore be adopted as indicated below :-

(Rate per hectare)

Villages	Class of lands			
	Residential	commercial	Industrial	Others
	(1)	(2)	(3)	(4)
	Rs.	Rs.	Rs.	Rs.

GROUP - I

A. Pondicherry region :

i) <i>Headquarters of Deputy Tahsildar Offices:</i> 1. Bahour 2. Villianur	}				
ii) <i>Headquarters of Commune panchayats:</i> 1. Ariankuppam 2. Thirubuvanai (Mannadipet Commune) 3. Nettapakkam 4. Ozhukarai		60,000	80,000	1,20,000	30,000
iii) <i>Industrial areas:</i> 1. Ariyur					

B. Karaikal region:

Headquarters of commune Panchayat.

1. Kottucherry 2. Thirunallar 3. Nedungadu 4. T.R.Pattinam 5. Neravy	}				
		30,000	40,000	60,000	15,000

	(1)	(2)	(3)	(4)
	Rs.	Rs.	Rs.	Rs.
GROUP - II				
A. Pondicherry region:				
All areas other than those specified under Group - I	40,000	53,333 or 54,000	80,000	20,000
B. Karaikal region:				
All areas other than those specified under Group - I	20,000	26,667 or 27,000	40,000	10,000

10. At the settlement that has been completed recently the rate of assessment for agricultural dry land was fixed in the range of Rs. 2 to Rs. 10 per hectare in Pondicherry region and in range of Rs. 2.20 to Rs. 20.40 per hectare for Karaikal region. A rate of assessment which is higher than the dry assessment, for an agricultural land but less than the maximum rate of ground-rent for urban land which has been fixed at Rs. 62.50 per hectare in section 12 of the Settlement Act, 1970 would seem to be just and proper for a non-agricultural land in the village sites (natham) because the market value of non-agricultural land is generally higher than that of an agricultural dry land but is less than a non-agricultural land is vastly developed municipal town areas such as Pondicherry and Karaikal where ground-rent is leviable.

11. Having regard to the provisions of section 8 (3) of the Act, it is proposed to fix the assessment rates at percentage of the value of the lands as determined in para. 7 above. The rates of assessment for the various classes of lands will be as follows :-

	Class of the land			
	<i>Residential</i>	<i>Commercial</i>	<i>Industrial</i>	<i>Others</i>
Rate of assessment (% of the market value of the land)	(1)	(2)	(3)	(4)
	0.04 %	0.04 %	0.04 %	0.04 %
Rate of assessment per hectare				
A. Pondicherry region :	Rs.	Rs.	Rs.	Rs.
Group - I	24	32	48	12
Group - II	16	21.50	32	8
B. Karaikal region :				
Group - I	12	16	24	6
Group - II	8	11	16	4

12. The assessment payable shall be rounded to the nearest ten paise. But the minimum assessment payable for any case shall not be less than 30 paise.

13. All housesites conferred with ownership right under the Pondicherry Occupants of Kudiyruppu (Conferment of Ownership) Act 1973, and all housesites granted under various schemes of this Administration shall also be covered by this report for the purpose of levying assessment.

IV. PRINCIPLES OF SETTLEMENT :

14. All roads, streets, and lanes going across the village natham and any other land of a communal, public or State utility which have not been so classified at the recent survey and settlement will be separately measured and classified in the present settlement as poramboke and assigned the appropriate poramboke classification.

15. Lands vested in the village panchayat or commune panchayat under the provisions contained in the Pondicherry Village and Commune Panchayats Act, 1973, shall be so indicated in the remarks column of the Settlement Register.

16. All housesites and the appurtenances thereto proved to have been owned by private individuals, shall be entered in the Settlement accounts as "*Ryotwari manai*" while those belonging to Government shall be entered in them as "*Government manai*".

17. The Settlement Officer shall enter the rates of assessment mentioned in para. 11 above in the notice he has to publish in the respective village in Form 3 of the Pondicherry Settlement Rules, 1970 calling for objection and representation, if any, of them.

18. If the Settlement Officer feels that any change either in the grouping of the villages or in the classification of lands or in the fixation of rates is found necessary whether as a result of the statutory enquiry or otherwise which he has to conduct on the notice in Form 3 he may make the necessary changes subject to the approval of the Director of Settlement.

19. If any land is used partly for residential purpose and partly for any other purpose, the Settlement Officer shall assess the land at the higher of the rates applicable to such purposes.

V. TREE TAX

20. No tax will be levied on trees standing on lands included in holdings. But scattered trees on poramboke lands reared or planted by the individuals shall be granted under tree tax system to the respective claimants according to the provisions contained in Chapter VI of the Land Grant Rules, 1975 by the Tahsildar or Deputy Tahsildar concerned.

VI. REGISTRY :

21. At the settlement, rough pattas for the lands covered by houses or housesites or huts as the case may be, will be issued to the persons possessing rights to them. They will be issued in accordance with the entries in the existing property tax accounts of the panchayats concerned, after due verification on ground and enquiry in the matter of their possession and enjoyment. Where there are no entries in those accounts, the issue of pattas will be based on documents which may be available or produced at the enquiry and during field inspection. Where no such documents are so produced, undisturbed possession for a period exceeding thirty years shall be taken into consideration for granting the pattas after conducting a detailed enquiry after due publication of a notice in the village.

VII. ROUGH PATTAB OBJECTION HEARING :

22. As a part of the settlement a rough patta objection hearing will be conducted and an intimation thereof specifying the date, hour and place of hearing will be given to the holders of the lands along with their pattas. A notice will also be published in the village about the Rough Patta Objection Hearing. These pattas will contain the resurvey numbers of the lands, the correlation to old cadastre survey number, if any, their extent as per resurvey, their assessment as per settlement, etc. They will be given an opportunity for making objections and representations on them on the date as specified above. No objections or representations will be entertained if they relate to the rate of levy or to matters directly connected with the Pondicherry Survey and Boundaries Act, 1967. The village officers will be present at the hearing and orders passed on the objections and representations will be intimated to the parties then and there i.e., at the hearing itself. No petition or communication pertaining to the patta will be entertained after the date of the hearing unless the delay in making them is explained to the satisfaction of the officer conducting the enquiry. While every endeavour will be made to deliver the pattas personally to the landholder, absentee pattadars and non-resident pattadars will have to make their own arrangements to obtain the pattas from their village officers. There will be an interval of not less than seven days between the date of issue of the patta and the date of conduct of the Rough Patta Objection Hearing.

VIII. APPEALS :

23. An appeal will lie to the Director of Settlement against the orders passed by the Settlement Officer. Parties will have to obtain the written orders of the Settlement Officer before filing the appeals. The appeals may have to be preferred to the Director of Settlement within 30 days from the date of communication of the orders. Appeal petitions need not be stamped but copies and enclosures appended thereto should be stamped in accordance with the provisions contained in the Court Fees Rules.

IX. COLLECTION OF ASSESSMENT :

24. The assessment fixed on non-agricultural lands in village sites (natham) shall be payable for each fasli year as laid down in section 11 of the Pondicherry Settlement Act, 1970.

X. DURATION OF SETTLEMENT :

25. Subject to the provisions of sub-section (1) of section 9 of the Pondicherry Settlement Act 1970 (Act 28 of 1970), the settlement may remain in force for a period of thirty years. The Government may reserve to themselves the right to revise at any time during the settlement, the classification and as a consequence thereof the rate of assessment of any land, as residential, commercial, industrial or others as may seem to them proper.

G. O. Ms. No. 3, dated 3rd February 1978.

ORDER

In exercise of the powers conferred by sub-section (1) of section 6 of the Pondicherry Settlement Act, 1970 (Act No. 28 of 1970) the Lieutenant-Governor, Pondicherry hereby directs settlement under the provisions of the said Act in respect of the non-agricultural lands in the Municipal towns of Pondicherry, Karaikal and Yanam.

2. Under sub-section (6) of section 8 of the said Act, the Lieutenant-Governor further directs that the Scheme Report of the Settlement Officer, Pondicherry approved in G. O. Ms. No. 13 (Survey) dated 1-10-1977 and subsequently approved by the Pondicherry Legislative Assembly on 16-12-1977 as required in the above sub-section and appended to this order be published in the Gazette of Pondicherry.

3. Under sub-section (7) of section 8 of the Act, the Lieutenant Governor also directs that the settlement covered by the said Report be introduced by the Settlement Officer from the Fasli year noted below against each town :-

<i>Name of the Municipal town</i>	<i>Fasli year</i>
1. Karaikal	1389 (1-7-1979 to
2. Yanam	30-6-1980)
3. Pondicherry	1390 (1-7-1980 to 30-6-1981)

APPENDIX

Scheme report for effecting settlement of the lands in towns

Scheme report for effecting land revenue settlement in respect of non-agricultural lands in the Municipal towns of Pondicherry, Karaikal and Yanam submitted by the Settlement Officer, Pondicherry under section 8 (4) of the Pondicherry Settlement Act, 1970 (Act 28 of 1970).

I. INTRODUCTORY

The object of the Settlement now undertaken is to determine the ground-rent on all sites of buildings and the appurtenances thereto situated within the limits of the Municipal towns of Pondicherry, Karaikal and Yanam and on all lands used for non-agricultural purposes whether built upon or not similarly situated within the limit of the said Municipal towns. The non-agricultural lands in Municipal towns are described in the ex-French revenue records as "habitation" and classified as "Poramboke" (Colonie Commune etc.). Since the lands were not hitherto subjected to the levy of land tax, it is expedient to formulate a Scheme in detail for the settlement of the various classes of non-agricultural lands in towns.

2. In the previous scheme reports submitted by the Settlement Officer for the settlement of agricultural lands, a mention was made that ground-rent shall be levied on the non-agricultural lands in Municipal towns at Rs. 15.65 per hectare subject to a maximum of Rs. 62.50 as contemplated in section 12 (b) of the Pondicherry Settlement Act, 1970. However, no detailed procedure was laid down in those reports because they were confined to the settlement of agricultural lands only as approved by the Planning Commission under the IV Five Year Plan Schemes. Subsequently, the Planning Commission has approved a scheme going by the name of "detailed town survey and settlement" under the V Five Year Plan Schemes and this report envisages the implementation of the scheme in detail.

3. The agricultural lands used for the same purposes which are lying within the territorial limits of the Municipal towns will continue to be as such with the same assessment already fixed thereon. Only such of those agricultural lands which are used for non-agricultural purposes and similarly situated as the sites of buildings classified as "habitation", will be covered by this report.

4. This report is not applicable to Mahe region because there are no sites of buildings without land tax classified as "habitation" as prevailing in the other Municipal towns, for taking up detailed town survey and settlement and the housesites in that region are located in small extents within the agricultural garden lands locally known as "Parambus" which were already settled under the Pondicherry Settlement Act, 1970 as agricultural lands.

II. FEATURES OF SETTLEMENT :

5. The principal features of the Scheme of " Detailed Town Survey and Settlement " are :

(i) to survey each housesite and the appurtenance thereto situated within the Municipal towns of Pondicherry, Karaikal and Yanam and each land used for non-agricultural purposes, whether built upon or not similarly situated within the Municipal limits, including the housesites in respect of which the occupiers have been conferred with ownership rights under the Pondicherry Occupants of Kudiyiruppu (Conferment of Ownership) Act, 1973 and the housesites granted under various Land Grant Schemes of this Administration, as a separate holding and to prepare measurement sketches therefor and fix the ground-rent due on it with reference to the provisions contained in section 12 (b) of the Pondicherry Settlement Act, 1970; in the manner specified under sub-sections (1), (2) and (3) of section 8 of the said Act.

(ii) to prepare the records prescribed in section 13 (1) of the Settlement Act, viz., the Settlement Register and the Register of Rights;

(iii) to assign appropriate " Poramboke " classification for the lands which are used or which may be required for communal, public, or government purposes such as Road, Street, Lane, Park, Playground etc. which will not be subject to ground-rent.

III. FIXATION OF RATES OF GROUND-RENT :

6. Section 8 (3) of the Pondicherry Settlement Act, 1970 states that in fixing the rates of assessment for non-agricultural lands, regard shall be had to the value of the land for the purpose for which it is held. On this basis, the lands are to be divided into groups and further divided into classes under those groups.

7. For these reasons, statistics were gathered from the guideline registers maintained in the Taluk and Sub-taluk offices showing the sale value of housesites prevailing in different places within the Municipal towns of Pondicherry, Karaikal and Yanam. The sale value of housesites in these Municipal towns ranges from Rs. 3 to 101.80 per square metre as detailed below :-

<i>Name of the Municipal town.</i>	<i>Rate per square metre.</i>		
	<i>Rs.P.</i>		<i>Rs.P.</i>
Pondicherry	3.00 to	101.80
Karaikal	26.90 to	37.40
Yanam	10.00 to	30.00

8. In major portion of Pondicherry town, the sale value ranges from Rs. 30 to 101.80 per square metre. It is reported that there are some sales at Rs. 7.20 per square metre in the fishermen area and at Rs. 15 and Rs. 18 in the interior places of Vandrapet and Muthialpet respectively. In

Kommpakkam etc., villages which have been recently included in Pondicherry Municipal town from the erstwhile Mudaliarpur Commune, the rates are ranging from Rs. 3 to 53.80 per square metre. The low rates generally prevail in interior places. In view of the rapid growth of Pondicherry town the prices of plots are on the increase and hence no distinction could be made within Pondicherry town for areas fetching low prices at present. When compared with the other towns viz., Karaikal and Yanam, the sale value in Pondicherry is about three times higher. Hence it is proposed to place the entire Pondicherry town under Group-I and both Karaikal and Yanam towns under Group-II.

9. The non-agricultural lands in each group will be divided into three classes as mentioned below depending on the use to which they are put at the time of their settlement :-

(i) Land used for residential purposes whether built upon or not including garden etc.

(ii) Land used for commercial purposes such as shops, hotels, etc. (including marriage halls) and used for industrial purposes such as, factories, workshops, spinning and weaving mills, rice mills, etc.

(iii) Other lands, not falling under any of the categories (i) and (ii) above and which are used as private schools, bajana temples, recreation clubs etc.

10. At the settlement for agricultural lands that has been completed previously, the following rates of assessment were fixed for agricultural lands in the revenue villages included within the Municipal towns :-

<i>Name of the Municipal town</i>	<i>Rate per hectare</i>	
	<i>Rs.P.</i>	<i>Rs.P.</i>
1. Pondicherry	4.20	to 20.50
2. Karaikal	2.20	to 26.20
3. Yanam	4.20	to 29.30

The value of non-agricultural lands is increasing day by day and in fact they are more valuable than the agricultural lands. Hence, in principle, the ground-rent on non-agricultural lands should be more than the highest rate of assessment on agricultural land i.e., Rs. 29.30 per hectare noted above. According to section 12 (b) of the Pondicherry Settlement Act, 1970, the ground-rent should not exceed Rs. 62.50 per hectare. This gives a rate of 0.06 paise per square metre. By this rate, the ground-rent payable per year for a plot of 60 * 40 (or 223 square metres), which is the normal size of housesites in this area, works out Rs. 1.39 only. It is apparent that this amount is very nominal. Hence it is proposed to adopt the maximum rate of Rs. 62.50 per hectare in Pondicherry Municipal town.

11. Generally, the value of a site used for industrial and commercial purposes will be greater than that of another site used for residential purposes. Hence the classes mentioned in para 9 above will be arranged as follows on their merits :-

- (1) Industrial and Commercial.
- (2) Residential
- (3) Others.

12. It will be just and reasonable to make a reduction of Rs. 10 per hectare between group-I and II. Similarly a reduction of Rs. 5 per hectare will be reasonable between each class mentioned above. On this basis the rates of ground-rent for each town are worked out as follows :-

<i>Name of the Municipal town</i>	<i>Group No.</i>	<i>Class (1)</i>	<i>Class (2)</i>	<i>Class (3)</i>
		<i>Rs. P.</i>	<i>Rs. P.</i>	<i>Rs. P.</i>
Pondicherry	I	62. 50	57. 50	52. 50
Karaikal & Yanam	II	52. 50	47. 50	42. 50

13. The ground-rent payable at the rates specified in para 12 above shall be rounded to the nearest ten paise. But the minimum ground-rent payable for any case shall not be less than one rupee.

IV. PRINCIPLES OF SETTLEMENT :

14. All roads, streets, lanes, parks, playgrounds, etc., in the Municipal towns and any other land of a communal, public or Government utility which have not been so classified at the resurvey and settlement, introduced in Faslis 1383 and 1384 will be separately measured and classified in the present settlement as poramboke and assigned the appropriate poramboke classification.

15. Lands vested in the Municipal Council under the provisions contained in the Pondicherry Municipalities Act, 1973, shall be so indicated in the relevant column of Settlement Register.

16. All housesites and the appurtenances thereto proved to have been owned by private individuals, institutions etc., shall be entered in the Settlement records, as " Ryotwari Manai " while those belonging to Government shall be entered in them as " Government Manai ".

17. The Settlement Officer shall enter the rates of assessment mentioned in para 12 above, in the notice he has to publish in Form 3 of the Pondicherry Settlement Rules, 1970, calling for objections and representations, if any, on them and pass appropriate orders.

18. If any land is used partly for one purpose and partly for any other purpose, the Settlement Officer shall assess the land at the higher of the rates applicable to such purpose.

V. TREE TAX :

19. No tax will be levied on trees standing on lands included in holdings. But scattered trees on poramboke lands reared or planted by the individuals shall be granted under tree tax system to the respective claimants according to the provisions contained in Chapter VI of the Land Grant Rules 1975, by the Tahsildar or Deputy Tahsildar concerned.

VI. REGISTRY :

20. At the Settlement, Rough Pattas for the lands covered by houses, housesites etc., will be issued to the persons, possessing rights on them. They will be issued in accordance with the entries in the existing property tax accounts of the Municipality concerned, after due verification on ground and enquiry in the matter of their title. Where there are no entries in those accounts, the issue of pattas will be based on documents which may be available or produced at the enquiry and during field inspection. Where no such documents are so produced, undisturbed possession for a period exceeding thirty years may be taken into consideration for granting the pattas after conducting a detailed enquiry and after due publication of a notice in the locality.

VII. ROUGH PATT A OBJECTION HEARING :

21. As a part of the Settlement, a rough patta objection hearing will be conducted and an intimation thereof specifying the date, hour and place of hearing will be given to the holders of the sites along with their pattas. There will be an interval of not less than seven days between the date of issue of the patta and the date of conduct of the Rough Patta Objection Hearing. The patta will contain the name of the owner of the site, the Town survey number of the site, the correlation to old survey number, if any, the extent as per Town survey in square metres, and the ground-rent as per settlement etc. The pattadars will be given an opportunity for making objections and representations on them on the date as specified above. No objections or representations will be entertained if they relate to the rate of levy of ground-rent or to matters directly connected with the Pondicherry Survey and Boundaries Act, 1967. The Karnams will be present at the hearing and orders passed on the objections and representations by the officer conducting the enquiry will be intimated to the parties then and there i.e., at the hearing itself. No petition or communication pertaining to the patta will be entertained after the date of the hearing unless the delay in making them is explained to the satisfaction of the officer conducting the enquiry. While every endeavour will be made to deliver the pattas personally to the holders of the sites, absentee pattadars and non-resident pattadars will have to make their own arrangements to obtain the pattas through their tenants or agents from the Settlement Office.

22. Subject to the provisions of section 23 (1) of the Pondicherry Settlement Act 1970, the Settlement Officer either of his own motion or on the application of any person shall correct any *bona fide* mistake in regard to any decision or proceedings or clerical or arithmetical mistakes in the records at any time.

VIII. APPEALS :

23. An appeal will lie to the Director of Settlement against the orders passed by the Settlement Officer. Parties will have to obtain the written orders of the Settlement Officer before filing the appeals. The appeals may have to be preferred to the Director of Settlement within 30 days from the date of intimation of the orders. Appeal petition need not be stamped, but copies and enclosure appended thereto should be stamped in accordance with the provisions contained in the Pondicherry Court Fees Rules.

IX. COLLECTION OF GROUND-RENT :

24. The ground-rent fixed on non-agricultural lands in the Municipal towns shall be payable for each fasli year as laid down in section 11 of the Pondicherry Settlement Act, 1970.

X. DURATION OF SETTLEMENT :

25. Subject to the provisions of sub-section (1) of section 9 of the Pondicherry Settlement Act, 1970, the settlement may remain in force for a period of thirty years. The Government shall reserve to themselves the right to revise at any time during settlement, the grouping and the classification and as a consequence thereof the rate of ground-rent of any land as may seem to them proper.

**THE PONDICHERRY REVENUE
RECOVERY ACT, 1970**

THE PONDICHERRY REVENUE RECOVERY ACT, 1970

(Act No. 14 of 1970)

20th June 1970.

AN ACT

to provide for the recovery of arrears of revenue in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows :—

Short title, extent and commencement

1. (1) This Act may be called the Pondicherry Revenue Recovery Act, 1970.
- (2) It extends to the whole of the Union territory of Pondicherry.
- (3) It shall come into force on such ¹ date as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—
 - (a) " Collector " means the Secretary to Government Revenue, Finance, and Planning Department, Pondicherry and includes the Deputy Collector (Revenue), Pondicherry for Pondicherry region, and the Administrators, Karaikal, Mahe and Yanam in their respective regions ; ² [and any officer whom the Government may, by notification in the Official Gazette, appoint to perform the functions of a Collector under this Act.] ²
 - (b) " Fasli Year " means the year commencing from the 1st July of every year and ending with the 30th June of next year ;
 - (c) " Government " means the Administrator of the Union territory appointed by the President under article 239 of the Constitution ;
 - (d) " revenue " in relation to land includes all dues payable to Government whether under the provisions of any law for the time being in force or under any agreement in respect of such land ;
 - (e) " sales officer " means any officer appointed by the Government to hold sales under the provisions of this Act ;
 - (f) " Union territory " means the Union territory of Pondicherry.

1. The Act came into force on the 1st day of August, 1970 vide Notification No. B-819/68-Rev. I, dated 25th July, 1970.

2. Inserted vide No. 273/Leg./88-LLD dt. 19-5-1988 by the Pondicherry Revenue Recovery(Amendment) Act, 1988.

Security for revenue

3. The land, the buildings upon it, and its products, shall be regarded as security for payment of revenue.

Revenue when becomes due and payable

4. (1) The revenue leviable on account of a fasli year shall become due on the first day of that year and it shall be payable at such times, in such instalments, to such persons, at such places and in such manner, as may be specified by Government, by an order in this behalf.

(2) Any period elapsing between the first day of the fasli year and any date specified under sub-section (1) for the payment of revenue shall be deemed to be period of grace and shall not affect the provisions of sub-section (1).

Arrear of revenue and defaulter

5. Any instalment of revenue or part thereof which is not paid on the date specified for payment under section 4 shall become an arrear of revenue and the person responsible for the payment shall become a defaulter.

Arrear of revenue how recovered

6. Whenever revenue is in arrear, it shall be lawful for the Collector, or other officer empowered by him in this behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's movable or immovable property or both or by execution against the person of the defaulter in the manner hereinafter provided :

Provided that the following properties shall not be liable for sale, namely :—

(i) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, his wife and children, and such personal ornaments as, in accordance with the religious usage, cannot be parted with by any woman ;

(ii) tools of artisans and, if the defaulter is an agriculturist, his implements of husbandry, except an implement driven by mechanical power and such cattle and seed as may, in the opinion of the Collector, be necessary to enable him to earn his livelihood as such and also such portion of the agricultural produce as in the opinion of the Collector is necessary for the purpose of providing, until the next harvest, for the due cultivation of the land and for the support of the holder and his family ;

(iii) articles set aside exclusively for the use of religious endowments ;

(iv) houses and other buildings (with the materials and sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him.

Interest on arrears

7. Arrears of revenue shall bear interest at the rate of ¹ [12 per cent per annum] ¹

Procedure for seizure and sale of movable property

8. In the seizure and sale of moveable property for arrears of revenue, the following procedure shall be followed, namely :—

(i) (a) The Collector or other officer empowered by him in this behalf, shall furnish to the person employed to distrain the property of a defaulter (hereinafter called the distrainer), a demand in writing, duly signed by him, specifying the name of the defaulter, the amount of the arrear for which the distress is to be issued and the date on which the arrear fell due.

(b) The distrainer shall produce such demand to the defaulter and if the arrear together with the batta due to him under section 53 is not paid at once, the demand itself shall be his authority for making the distress.

(ii) On the day on which the property is distrained, the distrainer shall deliver a copy of the demand to the defaulter, endorsing thereon a list or inventory of the property distrained and the name of the place where it may be lodged or kept.

(iii) The demand shall also state that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, are previously discharged.

(iv) When a defaulter is absent, a copy of the demand along with the endorsement, shall be fixed or left at his usual place of residence or on the premises where the property may have been distrained, before the expiration of the third day calculating from the day of the distress.

Procedure when defaulter neglects to pay after notice

9. Where the amount due is not paid in accordance with the terms of the demand, and no arrangement for securing such amount has been entered into to the satisfaction of the Collector or other officer empowered by him in this behalf, the distrainer shall transmit an inventory of the property distrained to the Sales Officer so that it may be publicly sold for the discharge of the arrear due, with interest, batta, and the cost of distraint.

Distress to be withdrawn on tender of arrear, etc., prior to sale

10. Where a defaulter tenders payment of the arrear demanded together with interest, batta and all necessary expenses attending distress after his property has been distrained, but prior to the date fixed for sale, the distrainer shall receive the amount so tendered and shall forth-with release the property.

Distrainted crops how dealt with

11. (1) The distrainer attaching the crops or ungathered products of the land belonging to a

1. Substituted by No. 520/Leg./90-LLD dated 7-11-1990.

defaulter, may either cause them to be sold when fit for reaping or gathering, or may cause them to be reaped or gathered in due season and stored in proper places until sold and in the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

(2) When crops or products belonging to a tenant are sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due from him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown and it shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due from him, then or afterwards.

Distrained cattle or goods not to be used

12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained and shall provide the necessary food for the cattle or livestock, and any expenses so incurred shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Recovery of loss from neglect in respect of distrained property

13. Where property distrained or stolen or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly made use of, the amount of such loss or damage shall be recoverable by summary process by the Collector from the officer from whose neglect or act the loss or damage was occasioned and the amount so recovered shall be paid to the person damnified.

Distress to be proportionate to the arrear

14. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time of distress

15. Any distress shall be made after sunrise and before sunset and not otherwise.

Penalty for fraudulent conveyance of property to prevent distress

16. Where a defaulter makes any fraudulent conveyance of property to prevent the distress for arrears, any civil court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer.

Provided that nothing in this section shall preclude the defaulter from being proceeded with under section 424 of the Indian Penal Code Central Act 45 of 1860.

Claims to property distrained and sold

17. Where any person, not being a defaulter or his surety, claims a right to the property distrained and if the distrainer causes the property to be sold notwithstanding such claim, the claimant may, after establishing his right in a civil court of competent jurisdiction, recover from the distrainer

the full value of the property with interest, cost and damages :

Provided that no such claim to crops on or to be gathered from, the land attached in the possession of the defaulter and founded upon a previous sale, mortgage or otherwise shall bar the claim of revenue due from that land.

Penalty for forcibly or clandestinely taking away distrained property

18. Where it is proved to the satisfaction of any civil court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the court may, without prejudice to any action being taken under the provisions of the Indian Penal Code (Central Act 45 of 1860), summarily cause such property to be restored to the distrainer.

What places distrainer may force open

19. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house or other building, and shall also enter any dwelling house the outer door of which is open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein :

Provided that no apartment in such dwelling house which is in the actual occupancy of women, who according to the usage or customs of the country do not appear in public, shall be broken open or entered into by the distrainer except as provided in section 20.

Powers of distrainer to force open doors, etc., in the presence of a police officer

20. Where a distrainer has reason to believe that the property of a defaulter is lodged within a dwelling house, the outer door of which is shut or within any apartment in such dwelling house which is in the actual occupancy of women, who according to the usage or customs of the country do not appear in public, such distrainer shall break open the dwelling house or enter the said apartment only in the presence of a police officer :

Provided that no apartment in the actual occupancy of women shall be entered except after due notice has been given for their withdrawal and after giving them reasonable facility for such withdrawal.

Penalty for unlawful entry

21. Whoever forces open the outer door of a dwelling house or enters into an apartment which is in the actual occupancy of women is in contravention of the provisions of section 20 shall, on conviction before a Magistrate of the First Class, be punishable with imprisonment of either description for a term not exceeding six months or with fine not exceeding five hundred rupees.

Proclamation of time of sale and of property to be sold

22. (1) The sales officer shall cause to be affixed to the outer door of the defaulter's house or on the premises where the property has been distrained, a list of the property to be sold, with a notice specifying the place and time at which the property distrained shall be sold and shall also cause a proclamation of the intended sale to be made by beat of drum in the village in which the lands in

respect of which the arrear has fallen due is situate and in such other place or places as the Collector or other officer empowered by him in this behalf may consider necessary.

(2) No sale shall take place until after expiration of a period of fifteen days from the date on which the notice has been affixed under sub-section (1).

Sale how conducted

23. At the appointed time, the property shall be put up in one or more lots, as the sales officer may consider advisable, and shall be sold to the highest bidder. Where the property is sold for more than the amount of the arrear, the excess amount shall, after deducting the expenses of process and interest, be paid to the defaulter.

Payment on purchase of distrained property

24. (1) The property shall be paid for in cash at the time of the sale or as soon after as the officer holding the sale shall appoint and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full.

(2) Where the purchaser fails to pay the purchase-money under sub-section (1), the property shall be brought up for re-sale and the defaulting purchaser shall be liable for any loss arising therefrom as well as the expenses incurred on the re-sale and if the property is sold on the re-sale for a higher price than the first sale, the difference or increase in the price¹ [shall be the property of the defaulter, subject to the right of the Government to appropriate towards arrears remaining, if any.].

Demand to be served prior to attachment of land and mode of service

25. (1) Before a Collector, or other officer empowered by him in this behalf, proceeds to attach the land of the defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the land in respect of which it is claimed the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid.

(2) Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorised agent, or by affixing a copy thereof on some conspicuous part of his last known residence or on some conspicuous part of the land about to be attached.

Procedure when defaulter neglects to pay

26. When the amount due has not been paid pursuant to the terms of the demand, and no arrangement for securing the same has been entered into to the satisfaction of the Collector, or other officer empowered by him, in this behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the manner hereinafter contained.

1.Substituted by Act 11 of 1973,section 2, w.e.f. 01-10-1973.

Mode of attachment

27. (1) The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land.

(2) The notice referred to in sub-section (1) shall set forth that unless the arrear, with interest and expenses, are paid within the date specified therein, the land shall be brought to sale in due course of law.

(3) The attachment shall be notified by public proclamation on the land, and by publication of the notice in the Official Gazette.

Management of attached property

28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment, to assume the management of the property attached and in such case, he

shall appoint an agent with a proper establishment of officers to manage the property, and shall give the agent a certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property.

Provided that where the property is so small as not to admit of its being charged with the salary of an agent, it shall be committed to the care of such revenue officer as the Collector may determine, and all the provisions herein contained and applicable to agents shall be applicable to the revenue officer in the management of the property.

Notice of assumption of management

29. Notice of assumption of management of the property under section 28 shall forthwith be served on the defaulter in the same manner in which a demand is served under section 25 and shall also be notified by proclamation on the land and by publication in the Official Gazette.

Duties of agents

30. (1) It shall be the duty of the agent, during the continuance of management under section 28, to collect the rents and profits due, or accruing due upon the property according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist.

(2) The agent shall keep proper account of all his receipts and disbursements, and submit the same and pay over the balance, to the Collector, or other officer empowered by him in this behalf, monthly or whenever required and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expense without payment of any fee.

Liability of agent to suit or prosecution

31. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his property and all tenants or other persons holding by subordinate title, shall have the same remedies against such agent as they would have had against the defaulter if the act were done by the defaulter.

Effects of existing agreements between landholder and tenants

32. (1) Subject to the provision of sub-section (2), all agreements entered into between the defaulter and his tenants shall, while the attachment is in force, be binding on the Collector.

(2) All such agreements made collusively with a view to defeat or delay the effect of the attachment and all leases of land at a rate lower than the usual rates of lease prevailing in the locality and not made *bona fide* for the purpose of erecting factories or buildings or of bringing waste land into cultivation and all agreements made subsequent to the attachment shall be *null and void* against the Collector unless he declares otherwise and all charges or any encumbrances upon such land shall be postponed to the payment of the revenue :

Provided that nothing in this section shall affect the right of the parties to such agreement to bring a suit against the Collector in a civil court to establish their claim.

Payments by tenants

33. (1) All payments relating to rent or profits actually due, made before the public proclamation of the notice of assumption of management under section 29 to or on behalf of any defaulter by any person holding under him, shall not be called in question by the Collector.

(2) All payments referred to in sub-section (1) made after such public proclamation, or made before they were actually due shall be *null and void* against the Collector who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid leaving them to proceed against the defaulter by way of suit.

Settlement on withdrawal of attachment

34. All sums received from the property attached, shall, after paying the expenses of attachment and management, be credited towards the discharge of the arrears due, and interest thereon at the rate of six per cent per annum, and as soon as all arrears, interest, costs of attachment, and expense of management have been liquidated, the attachment shall be withdrawn, and a full account shall be rendered of all receipts and disbursements during the continuance of such attachment.

Release of land from attachment by persons interested

35. (1) It shall be lawful for any person claiming an interest in land which has been or is about to be, attached, to obtain its release by paying the arrears, interest thereof and cost incurred on such attachment.

(2) Any tenant making a payment under sub-section (1) may deduct such sum paid from any rent then or afterwards due by him to the defaulter.

(3) If such sums are paid by a *bona fide* mortgagee or other encumbrancer upon the property or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter, the amounts paid shall be a charge upon the land.

Procedure in sale of immovable property

36. In the sale of immovable property under this Act, the following procedure shall be followed, namely :—

(i) The sale shall be made by public auction to the highest bidder and the time and place of sale shall be fixed by the Collector in whose jurisdiction the property is situated or other officer empowered by him in this behalf :

Provided that no sale shall be conducted during the currency of a Fasli year.

(ii) The Collector, or other officer empowered by him in this behalf shall, before every sale is held under this section, issue a notice thereof in English and in the language of the region, specifying the name of the defaulter, the position and extent of land and of his buildings thereon, the amount of revenue assessed on the land, or upon its different sections, the proportion of the public revenue due during the remainder of the current fasli, and the time, place, and conditions of sale and the notice shall be fixed up one month at least before the date of sale in the Collector's Office, in the Office of the Tahsildar or Deputy Tahsildar, as the case may be, in the nearest police station— house, and on some conspicuous part of the land.

(iii) A sum of money equal to fifteen per cent of the price of the land shall be deposited by the purchaser in the hands of the Collector, or other Officer empowered by him in this behalf, at the time of the purchase, and if the remainder of the purchase money is not paid within thirty days of such purchase, the money so deposited shall be liable to forfeiture.

(iv) Where the purchaser refuses or omits to deposit the said sum of money, or to complete the payment of the remaining purchase-money within the period specified in clause (iii), the property shall be re-sold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of revenue and where in the second sale, the lands are sold for a higher price than at the first sale, the difference or increase in the price shall be credited to the defaulter.

(v) All persons bidding at a sale shall be required to state whether they are bidding on their own behalf or as agents, and, in the latter case, a written authority signed by their principals shall be deposited failing which their bids shall be rejected.

Certain provisions of section 36 not to apply to cases of purchase by Government

37. The provisions of clauses (iii) and (iv) of section 36 shall not apply to cases where immovable property sold under this Act is purchased by the Government.

Tender of arrears up to sunset on day before sale

38. (1) It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate or in taking the steps necessary for sale up to the day previous to the date fixed for sale under section 36 and the sale shall thereupon be stayed.

(2) All sums paid under this section or under section 39 by any tenant or a bona fide mortgagee or other encumbrancer or any person claiming an interest in the property adverse to the defaulter may be recovered in the manner laid down in section 35.

Application to set aside sale of immovable property on deposit

39. (1) Any person owning or claiming an interest in immovable property sold under this Act, may, at any time within thirty days from the date of sale, deposit into the treasury of the region in which

the immovable property is situated—

(a) a sum equal to five per cent of the purchase money, and

(b) a sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears, and may apply to the Collector to set aside the sale.

(2) If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchaser money so far as it has been deposited, together with the five per cent deposited by the applicant :

Provided that if more persons than one have made the deposit and application under this section, the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

(3) If a person applies under section 40 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application under this section.

Application to set aside sale on grounds of mistake, fraud, etc.

40. (1) At any time within thirty days from the date of the sale of immovable property, an application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it, but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularity or mistake unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

(2) If the application made under sub-section (1) is allowed, the Collector shall set aside the sale and may direct a fresh one.

(3) On the expiration of thirty days from the date of the sale, if no application to have the sale set aside is made under section 39 or under sub-section (1) or if such application has been made and rejected, the Collector shall make an order confirming the sale :

Provided that if the Collector has reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

(4) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase money, as the case may be, shall be returned to the purchaser.

(5) After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

(6) The certificate of sale granted under sub-section (5) shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of such purchase unless the authority before whom it is produced doubts its genuineness.

Proclamation of sale

41. Where lands are purchased at public sale under this Act, the Collector, or other officer empowered by him in this behalf, shall publish in the village in which the land is situated, in the Office of Tahsildar or Deputy Tahsildar as the case may be, in the Office of the Collector, and in the Official Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession

42. Where, notwithstanding such publication under section 41, any lawful purchaser of land is prevented from obtaining possession of the land, any court of competent jurisdiction, shall, on application and production of the certificate of sale granted under section 40, cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the said lands had been decreed to the purchaser by a decision of such court.

Contracts and payments binding on purchaser

43. All contracts entered into by the defaulter with his tenants, and all payments made to him by the said tenants shall be binding upon the purchaser to the same extent and under the same conditions as the contracts and payments are binding on the Collector under sections 32 and 33.

Sale to be free of all encumbrances and disposal of surplus

44. All lands brought to sale on account of arrears of revenue shall be sold free of all encumbrances, and if any amount remains after liquidating the arrears with interest and the expenses of attachment and sale and other costs due in respect to such arrears, it shall be paid over to the defaulter unless such payment is prohibited by any court of competent jurisdiction.

Recovery of arrears due to defaulter on the date of sale

45. Arrears of rent which on the date of sale is due to the defaulter from his tenants shall, in the event of the sale, be recoverable by him after the sale, by any process, except distraint which would have been utilised by him for that purpose before the said sale.

Sale of land for arrears

46. It shall be lawful for the Collector, or other officer empowered by him in this behalf, to sell the whole or any portion of the land of a defaulter in the discharge of an arrear of revenue :

Provided that, as far as may be practicable, no longer portion of the land shall be sold than may be necessary to discharge the arrears with interest, the expenses of attachment, management and sale.

Sale may be postponed on tender of security

47. (1) When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by him in this behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint.

(2) In the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter or against his security, or both.

Powers of arrest in case of wilful or fraudulent non-payment of arrears

48. When arrears of revenue, with interest and other charges cannot be liquidated by the sale of the property of the defaulter or of his surety, and the Collector has reason to believe that the defaulter or his surety is wilfully withholding the payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter or his surety, not being a female, in the manner specified in section 49 :

Provided that no person shall be imprisoned on account of an arrear of revenue for a longer period than two years or for a longer period than six months, if the arrear does not exceed rupees five hundred, or for a longer period than three months, if the arrear does not exceed rupees fifty :

Provided further that such imprisonment shall not extinguish the debt due to the Government by the defaulter, or his surety.

Procedure in case of arrest

49. (1) The Collector shall issue a warrant for the arrest of the defaulter, or his surety, or both which shall specify his name or their names, the amount of revenue due and the date on which it became payable and the warrant shall be signed and sealed by the authority by whom it was issued.

(2) The officer charged with the execution of the warrant shall thereupon arrest the defaulter or his surety, or both and send him or them to the Central Jail at Pondicherry, and deliver the warrant to the Jailor, which shall be a sufficient authority to him to receive the prisoner or prisoners.

(3) A copy of such warrant shall be retained by the Jailor, who shall forthwith despatch the original to the officer in-charge of the Central Jail.

Mode of enforcing payment by sureties

50. All the remedies specified by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Collector, or other officer empowered by him in this behalf, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the defaulters ; so, however, that not more than the total sum in arrears, and interest with costs and charges, shall be realised from the defaulters and the sureties.

Removal of crops may be prevented where revenue is payable in kind

51. When land revenue is payable in kind, it shall be lawful for the Collector or other officer empowered by him in this behalf, to prevent the removal of the crop from the land until a division has

been made, and the portion which belongs to the Government has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

Similar process in case of other species of revenue, advances, fee, cesses, etc

52. All arrears of revenue other than land revenue due to the Government, all advances made by the Government for cultivation or other purposes connected with the revenue, all fees or other dues payable by any person to or on behalf of the villages servants employed in revenue or police duties, all cesses lawfully imposed upon land and all sums due to the Government, including compensation for any loss or damage sustained by them as a result of a breach of contract, may be recovered in the same manner as arrears of land revenue under the provisions of this Act, unless the recovery thereof has been or may hereafter be otherwise specially provided for.

Process servers to be paid batta

53. The persons employed in serving notices, or other processes under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Government and published in the Official Gazette.

Interest and charges recoverable as arrears

54. The batta fixed under section 53 as well as interest and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter or his sureties in the same manner as arrears of revenue.

Who to bear expense of countermanded sale and recovery thereof

55. Where property attached or distrained is put up for sale, and the sale is countermanded, the proprietor shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place ; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the same process under which the original demand would have been recoverable.

Receipts for payments of revenue

56. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector or other officer empowered by him in this behalf and such receipt shall state the name of the person making the payment and the subject-matter in respect of which it is paid, and, in case of land revenue, shall describe the land on which the assessment is due and the names of the persons entered in respect thereof in the settlement account.

Procedure where defaulter or surety resides out of region

57. (1) Where a defaulter or his surety resides or holds property outside a region, wherein default has been made, the Collector of the region, in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose region such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own region.

(2) Every application under sub-section (1) shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application, or any person acting under his authority ; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the court has reason to doubt its genuineness :

Provided that nothing herein contained shall affect the right of any party to sue in his own region the Collector who made the application.

(3) A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of a Deputy Tahsildar.

Cognizance of questions relating to rate of revenue

58. No Civil Court shall have authority to take into consideration or decide any question as to the rate of land revenue payable to the Government, or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

Suits by persons aggrieved by proceedings

59. Nothing contained in this Act shall prevent the parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore contained in section 58, from applying to the civil courts for redress :

Provided that no court shall take cognizance of such suit unless it is instituted within six months from the date on which the cause of action arose.

Claim of Government to have precedence over all others

60. The claim of the Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever whether in relation to any mortgage, judgment, decree, execution or attachment or otherwise against any land or the holder thereof.

Repeal and savings

61. All laws in force in the Union territory corresponding to the provisions of this Act shall stand repealed as from the coming into force of this Act :

Provided that anything done or any action taken, including any notification, instruction or direction issued, properties distrained or sold, under the law so repealed, shall be deemed to have been done or taken under the provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

THE PONDICHERRY LAND ENCROACHMENT ACT, 1970

(Act No. 2 of 1971)

THE PONDICHERRY LAND ENCROACHMENT ACT, 1970

(Act No. 2 of 1971)

8th February, 1971.

AN ACT

To provide measures for checking unauthorized occupation of lands which are the property of Government in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows :-

Short title, extent and commencement

- 1.(1) This Act may be called the Pondicherry Land Encroachment Act, 1970.
- (2) It extends to the whole of the Union territory of Pondicherry.
- (3) It shall come, into force on ¹ [such date] ¹ as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—
 - (a) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution ;
 - (b) "prescribed" means prescribed by rules made under this Act;
 - (c) "Union territory" means the Union territory of Pondicherry.

Right of property in public roads, etc., water and lands

3. (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark and of rivers, streams, lakes and tanks, all back-water, canals and water courses, and all standing and flowing water and all lands, wherever situated save in so far as the same are the property—
 - (a) of any person holding under ryotwari tenure or in any way subject to the payment of land tax direct to Government, or
 - (b) of any other person holding land under grant from the Government otherwise than by way of lease or licence, and, as to lands, save also in so far as they are temple site or owned as house-site or backyard are, and are hereby declared, to be, the property of Government except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

1. The Act came into force on the 1st day of July, 1971 vide Notification No.E.829/68 Revenue-1 dated 26-06-1971 Extraordinary Gazette No.69 dated 28-06-1971.

(2) All public roads and streets and sites vested in any local authority shall, for the purposes of this Act, be deemed to the property of Government.

Explanation:- In this section, "high water mark" means the highest point reached by ordinary spring tides at any season of the year.

Levy of assessment of lands unauthorisedly occupied

4. Any person who shall unauthorisedly occupy any land which is the property Government shall be liable to pay by way of assessment—

(i) If the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be ;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village, as the case may be, or when no such rates exist in such manner as may be prescribed :

Provided that payment of assessment under this section shall not confer any right of occupancy.

Explanations.- For the purpose of this section, occupation for an incomplete portion of a year may be deemed to be occupation for a whole year.

Conclusiveness of decision as to amount of assessment

5. The decision as to the rate or amount of assessment payable under section 4 shall be recorded in writing and shall be questioned in any civil court.

Liability of person unauthorisedly occupying land to penalty after notice

6. Any person liable to pay assessment under section 4 shall also be liable at the discretion of the Deputy Collector (Revenue) or subject to his control, the Tahsildar or Deputy, as the case may be, to pay in addition by way of penalty—

(i) if the land be assessed land, a sum not exceeding five rupees or when ten times the assessment payable for one year under section 4 exceeds five rupees, a sum not exceeding ten times such assessment.

Provided that no penalty shall ordinarily be imposed in respect of the unauthorised occupation of such land for any period not exceeding one year ;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 4 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Notice before proceeding under section 6

7. Before taking proceedings under section 6, the Deputy Collector (Revenue), or the Tahsildar or Deputy Tahsildar or Revenue Inspector, shall cause to be served in the prescribed manner on the

person reputed to be in unauthorised occupation of land being the property of Government, a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 6:

Provided that where the notice under this section is caused to be served by the Revenue Inspector, he shall require the person reputed to be in unauthorised occupation of the land to show cause against such notice to the Tahsildar or Deputy Tahsildar having jurisdiction and shall also make a report in writing containing such particulars as may be prescribed.

Recovery of assessment or penalty levied as arrears of land revenue

8. The amount of assessment and penalty imposed under this Act on any person unauthorisedly occupying any land shall be deemed to be land revenue and may be recovered from him as arrears of land revenue under the law relating to recovery of land revenue for the time being in force.

Appeal

9. An appeal shall lie—

(a) to the Deputy Collector (Revenue) against any decision or order passed by a Tahsildar or Deputy Tahsildar, as the case may be, under this Act,

(b) to the Collector from any decision or order of the Deputy Collector (Revenue) passed otherwise than on appeal, and

(c) to the Government from any decision or order of the Collector passed otherwise than on appeal.

Revision

10. (1) Any decision or order passed under this Act may be revised either **suo motu** or an application—

(a) by the Collector if such decision or order was passed by the Deputy Collector (Revenue) or a Tahsildar or Deputy Tahsildar.

(b) by the Government if such decision or order was passed by the Collector.

(2) The power conferred by the sub-section (1) shall not be exercised except on the ground that the Officer or authority whose decision or order is sought to be revised appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested or to have acted in exercise of his jurisdiction illegally or with material irregularity.

(3) No decision or order shall be passed under sub-section (1) prejudicial to any person without giving such person a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before such decision or order is passed.

Stay pending decision in appeal or revision

11. Pending the disposal of any appeal or application or proceedings for revision under this Act, the Deputy Collector (Revenue), Collector or the Government, as the case may be, may by order

and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.

Limitation for appeal and application for revision

12. (1) No appeal shall be preferred under section 9 after the expiration of thirty days from the date on which the decision or order appealed against was received by the appellant.

(2) No application for revision shall be preferred under sub-section (1) of section 10 after the expiration of thirty days from the date on which the decision or order sought to be revised was received by the applicant.

(3) In computing the period of thirty days referred to in sub-sections (1) and (2), the time required to obtain a copy of the decision or order appealed against or sought to be revised shall be excluded.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the officer or the Government may admit an appeal or application preferred after the period specified therein, if such officer or the Government is satisfied that the appellant or the applicant had sufficient cause for not preferring the appeal or application within that period.

Document accompanying petition of appeal or application for revision

13. Every petition or appeal or application for revision under this Act shall be accompanied by the decision or order appealed against or sought to be revised or by an authenticated copy of the same.

Saving of operations of other laws in force

14. Nothing contained in this Act shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any law for the time being in force.

Provided that if any penalty has been levied from any person under section 6, no similar penalty shall be levied from him under any other law in respect of such occupation.

Saving of suits by persons aggrieved by proceedings under the Act

15. Nothing contained in this Act shall be held to prevent persons deeming themselves aggrieved by any proceedings under this Act except as hereinbefore provided, from applying to the Civil Courts for redress :

Provided that the Civil courts shall not take cognizance of any suit instituted by such person for any such cause of action unless such suit shall be instituted within six months from the time at which the cause of action arose.

Explanation:— The cause of action shall be deemed to have arisen in respect of any assessment or penalty, on the date on which such assessment or penalty was levied.

Certain persons deemed to be in unauthorised occupation of land

16. Where a lease of land which is the property of Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf has passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders, shall for the purposes of sections 4 to 14, be deemed to be a person unauthorisedly occupying such land.

Saving of lands claimed by right of escheat or reversion

17. Nothing in this Act save as provided in section 16 shall apply to any lands claimed by right of escheat or reversion, until such lands have been reduced into possession by the Government.

Power to make rules

18. (1) The Government may make rules to carry out the purposes of this Act.

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

- (a) the rates of assessment leviable under section 4;
- (b) the manner and procedure for imposition of penalties under section 6;
- (c) the manner of declaring that any particular land or class of lands which are the property of Government shall not to be open to occupation;
- (d) the mode of service of notices under this Act;
- (e) the procedure to be followed in appeals and revisions under this Act and the fees to be paid in respect of such appeals and revisions; and
- (f) any other matter which under this Act is to be, or may be prescribed.

(3) Every rule made under this Act shall, as soon as may be after it is made, be laid before the Legislative Assembly, Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

Power to remove difficulties

19. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order to be notified in the Official Gazette do anything not inconsistent with the provisions of this Act which appears to the Government to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made under this section with reference to any matter relating to any provision of this Act after the expiration of two years from the date of the commencement of this Act.

Repeal and saving

20. (1) All laws in force (including the Decree dated 18th May, 1920) in the Union territory corresponding to the provisions of the Act shall, as from the commencement of this Act, stand repealed.

(2) The repeal by sub-section (1) of any law in force in the Union territory immediately before the commencement of this Act shall not affect

- (a) the previous operation of any such law or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any such law; or
- (c) any penalty, forfeiture or punishment incurred in respect of any office committed against any such law; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provision of sub-section (2) anything done or any action taken, including any appointment or delegation made, notification, order, instruction, or direction issued, rule, regulation or form framed, certificate granted for registration effected under any such corresponding law shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

**THE PONDICHERRY OCCUPANTS OF
KUDIYIRUPPU (PROTECTION FROM
EVICTION) ACT, 1970.**

(Act No. 4 of 1971)

THE PONDICHERRY OCCUPANTS OF KUDIYIRUPPU (PROTECTION FROM EVICTION) ACT, 1970.

(Act No. 4 of 1971)

26th February, 1971

AN ACT

to provide for the protection from eviction of persons occupying kudiyiruppu in certain areas in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows :—

Short title, extent and duration

1. (1) This Act may be called the Pondicherry Occupants of Kudiyiruppu (Protection from Eviction) Act, 1970.

(2) It extends to the regions known as Pondicherry, Karaikal and Yanam in the Union territory of Pondicherry.

(3) It shall remain in force for a period of ten years and upon the expiry of this Act, the provisions of section 6 of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under section 2 of the Pondicherry General Clauses Act, 1965 (Act 13 of 1965), shall apply as if this Act had then been repealed by a Pondicherry Act.

Definitions

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

(1) " agricultural labourer " means a person whose principal means of livelihood is the income he gets as wages for his manual labour on agricultural land ;

(2) " agricultural land " means any land used for any of the following purposes, namely :—

(a) horticulture ;

(b) the raising of crops, grass or garden produce ;

(c) grazing ;

(d) the raising of manure crops ;

(e) dairy farming ;

(f) poultry farming ;

(g) livestock breeding ;

(h) growing of trees ; and.

(i) includes any land used for any purpose subservient to the above purpose, any forest land, pasture land, plantation, orchard and tope, but

(ii) does not include house-site or land used exclusively for non-agricultural purpose ;

(3) " agriculturist " means a person who cultivates agricultural land by the contribution of his own manual labour or of the manual labour of any member of his family ;

(4) " authorised officer " means any Gazetted Officer authorised by the Government by notification in the Official Gazette to exercise the powers conferred on, and discharge the duties imposed upon the authorised officer under this Act for such area as may be specified in the notification ;

(5) " Government " means the Administrator of the Union territory appointed by the President under article 239 of the constitution ;

(6) " Kudiyiruppu " means the site of any dwelling house or hut occupied, either as tenant or as licensee, by any agriculturist or agricultural labourer and includes such other area adjacent to the dwelling house or hut as may be necessary for the convenient enjoyment of such dwelling house or hut ;

Explanation.— It shall be presumed that any person occupying the kudiyiruppu is an agricultural labourer or an agriculturist, until the contrary is proved.

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

(8) " tenant " means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under an agreement express or implied, and includes his heirs and legal representatives.

Act not to apply in certain cases.

¹ [2-A. Nothing in this Act shall apply to the lands belonging to or vested in the Government of the Union territory of Pondicherry, the Government of India, the Government of any State of India, a local authority or a corporation owned or controlled by any of the said Governments or authority.]

Persons occupying kudiyiruppu not to be evicted

3. (1) Subject to the provisions of sub-section (3), no person occupying any kudiyiruppu on the date of the publication of the Pondicherry Occupants of Kudiyiruppu (Protection from Eviction) Bill, 1970, in the Official Gazette shall be evicted from such kudiyiruppu.

(2) Subject to the provisions of sub-section (3), any person occupying any kudiyiruppu on the date referred to in sub-section (1), shall be entitled to continue to occupy a kudiyiruppu on the same terms and conditions as were applicable to him on such date.

(3) Sub-sections (1) and (2) shall not apply to any person occupying any kudiyiruppu—

(a) if he has done any act or has been guilty of any negligence which is destructive of or injurious to, the property belonging to the owner of the kudiyiruppu ; or

1. Inserted by Act 8 of 1972, dt 24-08-1972 Published in E. G. No. 77. dt 05-09-1972.

(b) if he has wilfully denied the title of the owner of the kudiyruppu.

Explanation.— A denial of the owner's title under a bona fide mistake of fact is not wilful within the meaning of this clause.

(4) In computing the period of limitation prescribed for an application for the execution of a decree of order for the eviction of a person occupying any kudiyruppu, the time during which he was protected by sub-section (1) from eviction, shall be excluded.

Explanation.— A decree or order shall be deemed to be a decree or order for the eviction of a person occupying any kudiyruppu notwithstanding that any other relief is also granted by such decree or order.

Right to restoration of possession of kudiyruppu

4. If any person who was occupying any kudiyruppu on the date of publication of the Pondicherry Occupants of kudiyruppu (Protection from Eviction) Bill, 1970 has been evicted from such kudiyruppu after such date, but before the commencement of this Act, or is evicted from such kudiyruppu after such commencement he may, within a period of six months after such commencement or after the date of eviction, as the case may be, apply to the authorised officer within whose jurisdiction the kudiyruppu is situated in such form as may be prescribed for restoration to him of the possession of the kudiyruppu from which he was evicted, and to occupy it subject to the same terms and conditions, as far as may be, as were applicable to him on the date of publication of the Pondicherry Occupants of Kudiyruppu (Protection from Eviction) Bill, 1970.

Owner's right to apply to the authorised officer

5. Any owner of kudiyruppu seeking to evict for any of the reasons mentioned in sub-section (3) of section 3 any person occupying any kudiyruppu may, whether or not there is an order or decree of court for the eviction of such persons, make an application for such eviction to the authorised officer within whose jurisdiction the kudiyruppu is situated, in such form and within such time as may be prescribed.

Authorised officer to hold summary inquiry

6. On receipt of the application under section 4 or section 5, the authorised officer shall, after giving a reasonable opportunity to the parties concerned to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it and shall communicate a copy of such order to the party concerned.

Appeals

7. (1) Against any order passed by the authorised officer under section 6, any person aggrieved by such order, and within sixty days from the date of the order, appeal to the Collector :

Provided that the Collector may admit an appeal presented after the expiry of the said period if he is satisfied that the party concerned had sufficient cause for not presenting it within the said period.

Explanation.— For the purpose of this sub-section " date of the order " means the date

which order is communicated to the party concerned.

(2) The provisions of section 4 and of sub-sections (1) and (2) of section 12 of the Limitation Act, 1963 (Central Act 36 of 1963) shall, as far as may be apply to any appeal under sub-section (1).

(3) An appeal to the Collector under sub-section (1) shall be in such form and shall be accompanied by such fee as may be prescribed.

(4) The Collector may, after giving the parties to the appeal, an opportunity of being heard, pass such order thereon as he thinks fit and shall communicate a copy of such order to the party concerned.

(5) The Collector may stay the execution of any order passed by the authorised officer pending the exercise of his powers of appeal under this section.

Act to over - ride other laws, Contracts, etc.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or decree or order of a court or other authority.

Costs

9. The costs of, and incidental to, all proceedings before the authorised officer or the collector shall be in his discretion.

Bar of jurisdiction of civil courts

10. No civil court shall have jurisdiction in respect of any matter in which the authorised officer or the Collector is empowered by or under this Act to decide and no injunction shall be granted by any court in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.

Indemnity

11. No suit, prosecution or other legal proceeding shall lie against the authorised officer or the Collector for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Power to make rules

12. (1) The Government may make rules to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the form of application to be made to the authorised officer under section 4 or section 5;

(b) the manner of holding summary inquiry under section 6;

(c) the manner of communicating to the parties the order under section 6 or under sub - section (4) of section 7;

(d) the form of appeal, and the fee payable under sub - section (3) of section 7.

(3) All rules made under this Act shall be published in the official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made this Act, shall, as soon as may be after it is made, be laid before the Legislative Assembly of Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions ,and if before the expiry of the session in which it is so laid, or the session immediately following , the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

13. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order , do anything not inconsistent with such provisions which appears to the Government to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made under this section after expiration of two years from the commencement of this Act.

**THE KARAIKAL AGRICULTURAL
LABOURER FAIR WAGES ACT, 1970.**

(Act No. 25 of 1970)

THE KARAIKAL AGRICULTURAL LABOURER FAIR WAGES ACT, 1970.

(Act No. 25 of 1970)

1st August, 1970.

AN ACT

to provide for payment of fair rates of wages for agricultural labourers in the Karaikal region of the Union territory of Pondicherry and for matters incidental thereto.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows :—

Short title, extent, commencement and duration

1. (1) This Act may be called the Karaikal Agricultural Labourer Fair Wages Act, 1970.
- (2) It shall extend to the region known as Karaikal in the Union territory of Pondicherry.
- (3) It shall come into force on such ¹ as the Government may, by notification in the Official Gazette, appoint.
- (4) It shall remain in force for a period of ² six years from the date of the commencement of this Act and upon the expiry of this Act, the provisions of section of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under section 2 of the Pondicherry General Clauses Act, 1965 (13 of 1965), shall apply as if this Act had then been repealed by a Pondicherry Act.

Definitions

2. In this Act, unless the context otherwise requires,—
 - (1) "agricultural labourer" means a person who, in consideration of wages payable to him by landowner performs manual labour on the agricultural land of such landowner, but does not include—
 - (a) pannaiyal as defined in the Karaikal Pannaiyal Protection Act, 1966 (3 of 1966);
 - (b) a person engaged in the house-hold work of the landowner or for cleaning cattleyard, or for storing manure at the backyard of the house;
 - (2) "agricultural land" means any land used for the cultivation of paddy and includes any land used for any purposes subservient thereto, but does not include house-site or land used exclusively for non-agricultural purposes;
 - (3) "Conciliation Officer" means a Conciliation Officer appointed under this Act;
 - (4) "fair wages" means the rate of wages specified in the Schedule;
 - (5) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President of India under article 239 of the Constitution;

1. The Act came into force on the 10th day of September 1970, vide Notification No. B-9494/69-I dated 5th September, 1970.

2. Substituted by Act 6 of 1974, dated 05-07-1974, Published in E.G.No. 90 dated 18-07-1974.

(6) "landowner"—

(a) in relation to a land personally cultivated, means the owner of such land and includes the heirs, assigns and legal representatives of such owner or persons deriving rights through him, and

(b) in relation to a land cultivated by a cultivating tenant means such cultivating tenant.

Explanation.— "cultivating tenant" shall have the same meaning as in sub-clause (b) of clause 2 of the Karaikal Tenants Protection Order, 1960.

(7) "Revenue Court" means a Revenue Court constituted under this Act.

Appointment of Conciliation Officers

3. The Government may, by notification in the Official Gazette, appoint for such area as may be specified therein, any officer of the Revenue Department not below the rank of a Tahsildar, to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by or under this Act.

Constitution of Revenue Courts

4. The Government may, by notification in the Official Gazette constitute for such area as may be specified therein, a Revenue Court which shall be presided over by an Officer not below the rank of a Deputy Collector (Revenue), for the purpose of performing the functions entrusted to a Revenue Court by or under this Act.

Fair wages payable to agricultural labourers

5. Every landowner shall pay fair wages to any agricultural labourer engaged by him.

Enforcement of payment of fair wages

6. (1) If any landowner pay less than the fair wages or refuses to pay the fair wages to any agricultural labourer, the agricultural labourer may make an application to the Conciliation Officer for a direction under section (2).

(2) On receipt of such application, the Conciliation Officer shall hear the applicant and the landowner and after such inquiry, if any which he may consider necessary, direct—

(i) in the case of a claim arising out of the payment of less than the fair wages, the payment to the agricultural labourer of the amount by which the fair wages payable to him exceeds the amount actually paid by the landowner.

(ii) in the case of a claim arising out of non-payment of fair wages, the payment of the fair wages to the agricultural labourer.

Wages for harvest

7. (1) The fair wages for harvest shall be paid at the threshing floor off which the threshing takes place and no portion of the produce shall be removed from the threshing floor without payment of fair wages to the agricultural labourer concerned.

(2) If, as a result of a direction under sub-section (2) of section 6 any amount of fair wages becomes payable to an agricultural labourer, the Conciliation Officer, or any person authorised by him not below the rank of a Revenue Inspector (hereinafter referred to as the authorised person) may,—

(i) in the case of harvest,—

(a) recover in kind such amount of fair wages at the threshing floor from out of the harvested paddy, and

(b) if the harvested paddy or any portion thereof has been removed from the threshing floor in contravention of the provisions of sub-section (1), the Conciliation Officer or the authorised person shall recover in kind the amount of fair wages from the landowner concerned and if such recovery is not possible, the Conciliation Officer or the authorised person shall recover the amount of cash value of such fair wages from the landowner concerned as if such amount were an arrear of land revenue, and pay the amount so recovered to the agricultural labourer concerned ;

(ii) in the case of any work other than harvest the Conciliation Officer, or the authorised person may recover in kind or in cash the amount of such fair wages from the landowner concerned as if such amount were an arrear of land revenue and pay it to the agricultural labourer concerned.

(3) The Conciliation Officer, or the authorised person shall have all such powers as the necessary to effect the payment of the fair wages to the agricultural labourer including the power to enter upon any land on which or into any building in which the harvested paddy is kept.

Appeal

8. (1) Against any final order passed by a Conciliation Officer under section 6, an appeal shall lie to the Revenue Court within such time as may be prescribed and the decision of the Revenue Court on such appeal shall, subject to the provisions of section 9, be final.

(2) The Revenue Court shall have no power to stay the operation of the order of the Conciliation Officer pending the disposal of the appeal.

Revision by the District Court

9. The District Court may call for and examine the record of any Revenue Court in respect of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon; and if, in any case, it appears to the District Court that any such proceeding, decision or order should be modified, annulled or reversed or remitted for reconsideration, it may pass orders accordingly :

Provided that the District Court shall have no power to stay the operation of any decision or order of the Revenue Court pending the exercise of the powers under this section:

Provided further that the powers of the District Court under this section shall not be exercised in respect of an interim order passed by the Revenue Court :

Provided also that the District Court shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.

Decision in appeal or revision to be given effect to

10. (1) Where the amount of fair wages paid under sub-section (2) of section 7 to any agricultural labourer is less than the amount of fair wages payable as a result of the decision in appeal or

revision, the balance shall be recovered from the landowner concerned as if it were an arrear of land revenue and paid to the agricultural labourer concerned.

(2) Where the amount of fair wages paid under sub-section (2) of section 7 to any agricultural labourer is in excess of the amount of fair wages payable as a result of the decision in appeal or revision, such excess shall be recovered from the agricultural labourer concerned as if it were an arrear of land revenue, and paid to the landowner concerned.

Bar of jurisdiction of civil courts

11. (1) Save as otherwise provided in this Act, no civil court shall entertain any suit or other proceeding to set aside or modify any order or decision passed by any Officer or authority or in respect of any other matter falling within his or its scope.

(2) No injunction shall be granted by any court in respect of any action taken or to be taken by an officer or authority in pursuance of any power conferred by or under this Act.

Power to take evidence on oath

12. Any officer or authority exercising powers under this Act shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavit ;
- (d) issuing commissions for the examination of witness ;

and any proceeding before the officer or authority shall be deemed to be judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (Central Act of 45 of 1860)

Act to override contract and other laws

13. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any pre-existing law, custom, usage; agreement or decree or order of a court.

Power to make rules

14. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the procedure to be followed by the Conciliation Officer and the Revenue Court;
- (b) the fees to be paid for applications and appeals under this Act ;

(c) the powers of the Conciliation Officer and the authorised person necessary for effective enforcement of the provisions of this Act ;

(d) the manner of estimating the cash value of fair wages in kind;

(e) any other matter which is required to be, or may be prescribed under this Act.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly, Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(4)]

PART-I

Men

All kinds of work during cultivating season.	Rs. 3-00 or six litres of paddy plus Re.1.25 P per day.
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Women

All kinds of work during cultivating season. plus	Re. 1.75 P. or five litres of paddy 0-25 P. per day.
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Explanation.— 'Work' does not include ploughing where bullocks and ploughs are provided by the agricultural labourer.

PART-II

Harvest

Six litres out of every fifty-four litres of harvested paddy.

Explanation.— For arriving at the wages specified above no deduction shall be made either for kalavady or for any other expenses from out of the harvested heap till the agricultural labourers' wages are paid.

Illustration.— If 5,400 litres of paddy is the total amount of paddy harvested, the wages payable for the agricultural labourers engaged for the harvest will be 600 litres and the balance will be 4,800; litres from which alone, the landowner will have to make any deduction for kalavady or for any other expenses.

**THE PONDICHERRY CULTIVATING
TENANTS (PAYMENT OF FAIR RENT)
ACT, 1970**

(Act No. 5 of 1971)

THE PONDICHERRY CULTIVATING TENANTS (PAYMENT OF FAIR RENT) ACT, 1970

(Act No. 5 of 1971)

27th February, 1971.

AN ACT

to provide for the payment of fair rent by cultivating tenants in certain areas in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first of the Republic of India as follows :—

Short title, extent and commencement

1. (1) This Act may be called the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970.

(2) It extends to the whole of the regions known as Pondicherry, Karaikal and Yanam in the Union territory of Pondicherry.

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

Provided that different dates may be appointed for different provisions of this Act or for different areas and any reference in any such provisions to the commencement of this Act shall be construed, in relation to any area, as a reference to the coming into force of that provision in such area.

Definitions

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

(a) " agricultural year " means the year commencing on the 1st day of April, or such other date as the Collector may specify in that behalf by notification in the Official Gazette ;

(b) " average gross produce " means the average produce for different classes of land in each zone as may be notified by the Government from time to time.

Explanation.— For the purpose of this clause each region shall be divided into zones and the lands comprised in each zone divided into categories consisting of double crop lands, single crop lands, irrigated lands and dry lands ;

(c) " cultivating tenant " means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied, on condition of paying rent therefor in cash or in kind or delivering or receiving a share of the produce and includes—

(i) any such person who continues in possession of the land after the determination of the agreement ;

* The Act came into force on the 1st day of April, 1971 vide Notification No. 6896/70—E, dated 22nd March, 1971

(ii) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land ;

(iii) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land ;

(iv) any such sub-tenant who contributes in possession of the land notwithstanding that the person who sublet the land to such-tenant ceases to have the right to possession of such land ; and

(v) a person who cultivates the land on payment of waram ; but does not include a mere intermediary or his heir ;

(d) " fair rent " means the rent payable under this Act ;

(e) " garden land " means dry land irrigated by lifting water from wells or other sources ;

(f) " Government " means the Administrator appointed by the President under article 239 of the Constitution ;

(g) " landowner " means the owner of the land let for cultivation by a cultivating tenant and includes the heirs, assignees, legal representatives of such owner, or person deriving rights through him ;

(h) " paid " includes " delivered " ;

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

(j) " Rent Court " and " Rent Tribunal " in relation to any area mean the Rent Court and Rent Tribunal respectively constituted under this Act for such area.

¹ [Act not to apply in certain cases

2A. Nothing in this Act shall apply, to—

(i) leases or tenancies of lands belonging to or vested in the Government of the Union territory of Pondicherry, the Central Government, a State Government, a local authority, or a corporation owned or controlled by any of the said governments, or authority ; or

(ii) leases or tenancies of lands created by the Administrator General or the Official Trustee or an Official Receiver or Officer appointed by a Court under the provisions of any law, or by any person holding under or deriving title from any of the Officers aforesaid.]¹

Interpretation

3. If any question arises whether any land is wet, or dry or garden land, the question shall be decided by the Rent Court.

Rights and liabilities of cultivating tenant and landowner

4. (1) With effect from the commencement of this Act, every cultivating tenant shall be bound to pay to the landowner and every landowner shall be entitled to collect from the cultivating tenant fair rent payable under this Act.

1. Inserted by Act 8 of 1973, section 2, w.e.f 19-07-1973. Published in E. G. No. 62 dt 31-07-1973.

(2) Where the irrigation of any land is irregular, the landowner shall bear the excess water cess proportionate to his share of the produce.

(3) Notwithstanding any neglect or failure on the part of the cultivating tenant to raise any crop, the landowner shall be entitled to collect fair rent.

(4) Subject to the proviso to sub-section (2) of section 5, all the cultivation expenses inclusive of cost of seed, ploughing, manuring, harvesting and threshing shall be borne by the cultivating tenant.

(5) The landowner shall be responsible for the payment of all dues payable to the Government and local authorities in respect of the land subject to his right to recover from the cultivating tenant the public charges which are expressly made payable by the cultivating tenant by this Act.

(6) The landowner shall bear all capital expenditure necessary to maintain the land and wells in a state of proper repair.

(7) No landowner shall, after the commencement of this Act, claim or stipulate for—

(i) payment of any amount by the cultivating tenant in excess of the fair rent or in excess of the public charges which are expressly made payable by the cultivating tenant by this Act;

(ii) the delivery by the cultivating tenant of any article or thing in addition to fair rent ; or

(iii) any service by the cultivating tenant or the free use of his cattle.

Explanation I.— Nothing contained in this section shall affect the right of the landowner to claim from the cultivating tenant compensation for damages to the land or to anything that stood on the land at the time of lease.

Explanation II.— Where a cultivating tenant pays a contract rent lower than the fair rent payable under this Act, clause (iii) shall not apply.

(8) Any person, the rent receivable by whom from any cultivating tenant in respect of any land, suffers a reduction as a result of the provisions of this Act, shall, if he is himself a tenant in respect of that land under another person, be entitled to surrender the lease of that land as from a date specified by him by notice given to his landlord.

(9) A landowner may for better farming advance to his cultivating tenant who is not a member of any co-operative society such loans as may be necessary for manuring his land. The loan so advanced shall be a first charge on the share of the produce to which the cultivating tenant is entitled under this Act.

(10) Notwithstanding anything contained in sub-section (4) and (9), the landowner may, with the consent of the cultivating tenant in the case of any wet land or garden land, attend to the manuring of the land by chemical manures and oil-cakes up to a sum equivalent to ten percent of the average gross produce and recover the same from the cultivating tenant. The amount payable by the cultivating tenant under this sub-section shall be in addition to the fair rent payable under this Act.

What is fair rent ?

5. (1) Subject to the provisions of sub-sections (2) and (3), fair rent shall be—

(i) in the case of wet land, 40 per cent of the average gross produce or its value in money;

(ii) in the case of wet land where the irrigation is supplemented by lifting water, 35 percent of average gross produce or its value in money ;

(iii) in the case of any other class of land $33 \frac{1}{3}$ % of the average gross produce or its value in money ;

Provided that the provision of this sub-section shall apply to the actual tenant cultivators and, where there is an intermediary tenant, to the cultivating sub-tenants.

Explanation I.— In every harvest, the landowner shall be entitled to one-fifth of the straw or stalk of all the crops.

Explanation II.— Pending determination of the average gross produce under clause (b) of section 2, the fair rent shall be 40%, 35% or $33 \frac{1}{3}$ %, as the case may be, of the actual gross produce.

(2) In the case of lands in clauses (ii) and (iii) of sub-section (1) in which water is lifted by pumpsets installed at the cost of the landowner, the fair rent specified in that sub-section shall be increased to 40 per cent :

Provided that the cultivating tenant shall bear all the maintenance charges and the landowner shall bear the charges for repairing the pumpsets and the installation of a pumpset shall be at the option of the landowner.

(3) Where the contract of tenancy provides for payment of a rent lower than the fair rent payable under the above provisions, the contract rent shall be deemed to be fair rent.

Fair rent payable in cash or in kind

6. (1) The fair rent in respect of any land may be paid either in cash or in kind or partly in cash and partly in kind, in accordance with terms of the contract between the landowner and the cultivating tenant; in the absence of such contract, the fair rent may be paid at the option of the cultivating tenant in any one of the above ways:

Provided that the option shall be exercised in the case of a tenancy in force on the date of commencement of this Act, within three months from such commencement and in any other case within three months from the date on which the tenancy agreement takes effect; and if the cultivating tenant does not exercise the option, within the period aforesaid, the landowner shall, by notice in writing given to the cultivating tenant, specify the mode in which the fair rent shall be paid by the cultivating tenant:

Provided further that the option once exercised or the mode once specified shall not be changed except by mutual agreement:

Provided further that where the crop raised is paddy, the landowner shall have the right to insist that the rent shall be paid in kind.

(2) Whenever adverse seasonal conditions result in the reduction of the gross produce from any particular crop and there is remission of land revenue, the landowner shall be bound to remit a proportionate part of the fair rent due to him from his cultivating tenant in respect of that land for that period:

Provided that before admitting or inquiring into an application made by a cultivating tenant for remission of fair rent under this section, the Rent court may impose such conditions as it considers reasonable in the circumstances of the case including condition as to deposit of admitted rent which has become due.

Alteration or revision of fair rent

7. Where in respect of any land fair rent has been determined under this Act, it shall continue in force for five years:

Provided that the Rent Court, may, on an application made by the cultivating tenant, reduce the fair rent if it is satisfied that on account of deterioration of the land by floods or other causes beyond the control of the cultivating tenant, the land has been wholly or partially rendered unfit for the purpose of cultivation.

Provided further that the Rent Court may, on an application made by the landowner, enhance the fair rent if it is satisfied that on account of any improvements made in the land by or at the expense of the landowner, the produce of the land has increased.

Sharing of produce

8. Where the produce to be shared is grain, the sharing shall be done at the threshing floor on which the threshing took place ; and no portion of the produce shall be removed there from at such time or in such manner as to prevent the due division thereof at the proper time.

Constitution of Rent Courts and Rent Tribunals

9. (1) The Government may, by notification in the Official Gazette, constitute Rent Courts and Rent Tribunals for the purposes of this Act with jurisdiction over such areas as may be specified in the notification.

(2) Every Rent Court shall be presided over by an officer not below the rank of Deputy Tahsildar in the case of Sub-taluk and Tahsildar in the case of a Taluk and every Rent Tribunal shall be presided over by an officer not below the rank of the District Munsif.

Application of Rent Courts and appeals to Rent Tribunals

10. (1) Notwithstanding any agreement between a land-owner and the cultivating tenant, or any decree or order of a Court, either party may, in case of dispute, apply to the Rent Court on payment of such fee as may be prescribed, for fixation of fair rent or for deciding any other dispute arising under this Act.

(2) Any person aggrieved by the decision of a Rent Court, may, within such time and on payment of such fee as may be prescribed, prefer an appeal to the Rent Tribunal whose decision shall be final, subject to revision, if any under section 12.

Costs

11. The costs of and incidental to all proceedings before the authorities referred to in section 10 shall be in the discretion of the respective authority.

Revision by High Court

12. The Rent Tribunal shall be deemed to be a Court subordinate to the High Court for the purpose of section 115 of the code of Civil Procedure, 1908 (Central Act 5 of 1908), and its orders shall be liable to revision by the High Court under the provisions of that section.

Publication of list of prices

13. (1) The Collector shall publish in the months of January, April, July and October every year in the Official Gazette the average market price of the main crops during the immediately preceding three months at the headquarters of each region.

(2) Where, for the payment of fair rent by a cultivating tenant to whom the provisions of this Act apply, the cash value of any crop has to be fixed, such value shall be fixed—

(a) in the case of any of the crops referred to in sub-section (1), at the market price last published under sub-section (1) before the date when such fair rent became payable ;

(b) in the case of any other crop at such rate as may be agreed upon between the land-owner and the cultivating tenant and in the case of disagreement as may be deemed fair and reasonable by the Rent Court.

Cultivating tenant's right to obtain receipts

14. (1) Every cultivating tenant paying rent shall be entitled to receive and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed.

(2) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,—

(i) the money, if the rent is payable in cash ; and

(ii) the money value of the rent, if it is payable in kind.

Act to override contract and other laws, etc.

15. (1) The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any pre-existing law, custom, usage, agreement or decree or order of a Court.

(2) If any provision contained in the Karaikal Pannaiyal Protection Act, 1966 (Act No. 3 of 1966) is repugnant to any provision contained in this Act, the latter provision shall prevail and the former provision shall, to the extent of the repugnancy, be of no effect.

Exemption

16. Nothing in this Act shall apply to—

(a) any land during the period when such land is used for raising any crop which does not give any yield for a continuous period of two years or more from the time of cultivation ; or

(b) to any contract merely for collection or harvesting of the produce of any kind.

Power to make rules

17. (1) The Government may, by notification in the Official Gazette make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the procedure to be followed by Rent Courts and Rent Tribunals ;
- (b) the matters to be taken into account in determining average gross produce ;
- (c) the fees to be paid in respect of applications and appeals under this Act ;
- (d) the time within which appeals may be presented under this Act ;

(e) the notification of prices of agricultural or horticultural produce for the purpose of fixing the cash value of the fair rent.

(3) All rules under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly of Pondicherry while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that any such rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

18. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order, do anything not inconsistent with such provisions which appears to the Government to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made under this section after the expiration of two years from the commencement of this Act.

**THE PONDICHERRY OCCUPANTS OF
KUDIYIRUPPU
(CONFERMENT OF OWNERSHIP) ACT,
1973.
(NO.8 of 1974)**

**THE PONDICHERRY OCCUPANTS OF KUDIYIRUPPU
(CONFERMENT OF OWNERSHIP) ACT, 1973.**

(NO.8 of 1974)

(21-08-1974)

AN ACT

to provide for the conferment of ownership rights on occupants of kudiyiruppu in certain regions in the union territory of pondicherry.

Be it enacted by the Legislative Assembly of Pondicherry in the Twenty fourth year of the Republic of India as follows:-

Short title extent and commencement

1. (1) This Act may be called the Pondicherry Occupants of Kudiyiruppu (Conferment of ownership) Act, 1973.

(2) It extends to the regions known as Pondicherry, Karaikal and yanam in the Union territory of Pondicherry.

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

Act not to apply in certain cases.

2. Nothing in this Act shall apply to the land belonging to or vested in the Government of the Union territory of pondicherry, the Government of India, the Government of any state in India, a local authority or a corporation owned or controlled by any of the said Governments or authority.

Definitions

3. In this Act, unless the context otherwise requires, -

(1) "agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages for his manual labour on agricultural land;

(2) "Agricultural land" means any land used for any of the following purposes, namely:-

(a) horticulture;

(b) the raising of crops, grass or garden produce;

(c) grazing ;

(d) the raising of manure crops;

(e) dairy farming

(f) poultry farming

(g) livestock breeding

(h) growing of trees and

(i) includes any land used for any purpose subservient to the above purposes, any forest land, pasture land, plantation, orchard and tope, but

(ii) does not include house - site or land used exclusively for non - agricultural purposes;

(3) "agriculturist" means a person who cultivates agricultural land by the contribution of his own manual labour of any member of his family;

(4) "authorised officer" means any Gazetted officer authorised by the Government by notification in the official Gazette to exercise the powers conferred on and discharge the duties imposed upon, the authorised officer under this Act, for such area as may be specified in the notification;

(5) "court" means the court of subordinate Judge having jurisdiction and if there are more than one such court, the court of the principal subordinate Judge;

(6) "Government" means the Administrator of the Union territory of Pondicherry appointed under article 239 of the Constitution;

(7) "kudiyiruppu" means the site of any dwelling house or hut occupied, either as tenant or as licensee, by any agriculturist or agricultural labourer and includes such other area adjacent to the dwelling house or hut as may be necessary for the convenient enjoyment of such dwelling house or hut.

Explanation - I. It shall be presumed that any person occupying the kudiyiruppu is an agricultural labourer or an agriculturist, until the contrary is proved.

¹Explanation - II. For the purpose of determining whether any area adjacent to the dwelling house or hut is necessary for the convenient enjoyment of such dwelling house or hut, the area which the agriculturist or agricultural labourer had been enjoying immediately before the 27th day of March 1972, and such other factors as may be prescribed shall be taken into account.¹

(8) "person interested" in relation on to any kudiyiruppu or superstructure thereon includes any person claiming, or entitled to claim, an interest in the amount payable on account of the vesting of that kudiyiruppu or superstructure in the occupant of the kudiyiruppu;

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

² [(9-A) "rural area" means any area declared by the Government by notification in the official Gazette, to be a rural area having regard its population, development and such other relevant factors as the circumstances of the case may require;]¹

(10) "schedule" means the schedule appended to this Act;

(11) "tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under an agreement express or implied and includes his heirs and legal representatives;

²[(11-A) "urban area" means any area other than a rural area;]

1. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

2. Inserted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983.

¹ (12) "vested kudiyruppu or superstructure" means the kudiyruppu or the superstructure which has vested absolutely in the occupant of the kudiyruppu ² under the provisions of this Act. ¹

Occupant of kudiyruppu to become owner.

4.¹ [(1) Subject to the provisions of section 4A any agriculturist or any agricultural labourer, who was occupying any kudiyruppu on the 27th day of March 1972, either as tenant or as licensee, shall, with effect from the commencement of this Act, deemed to have become the owner thereof and such kudiyruppu shall vest in him free from all encumbrances.

Provided that such agriculturist or agricultural labourer does not already own, within any area to which this Act extends, a dwelling house or hut erected on a site, or a house site which is eighty four square metres or more in extent.

Provided further that the extent of the kudiyruppu which shall so vest in any agriculturist or agricultural labourer shall be such (which in no case shall exceed three ares in rural areas and two ares in urban areas) as may be determined by the authorised officer after giving a reasonable opportunity to the occupant of the kudiyruppu and the person interested, of being heard in the matter.]

(2) Where in case of an occupant of kudiyruppu referred to in sub - section (1) , the superstructure belongs to any person other than such occupant, such superstructure shall also, with effect from the date of commencement of this Act, vest in such occupant absolutely free from all encumbrances.

¹ [4A. (1) (a) Where an application by the owner of any land, the authorised officer is satisfied that the kudiyruppu referred to in sub - section (1) of section 4 (hereinafter referred to as the original kudiyruppu) is so located as to cause inconvenience for the convenient enjoyment of the land as a whole by such owner, the authorised officer, may, by order permit the shifting of the kudiyruppu to another part of such land or to an alternative site possessed by such owner, within such distance and within such period as may be prescribed.

(b) The alternative site shall satisfy the following conditions, namely :-

(i) it shall be fit for erection of a dwelling house or hut, if there is not already any dwelling house or hut on the site.

(ii) its extent shall not be less than the extent of the original kudiyruppu, subject to a maximum of three ares in rural areas and two ares in urban areas, and

(iii) such other conditions as may be prescribed.

(2) The authorised officer, while granting permission under sub - section (1), shall also direct the payment, by the owner to the agriculturist or agriculture labourer occupying the original kudiyruppu , within such period as may be prescribed, of such costs as may be considered by the authorised officer to be reasonable for shifting of the residence to the alternative site including the cost for erecting a superstructure on the said site and the authorised officer shall, before granting permission under sub - section (1), satisfy himself that the conditions specified in clause (b) of sub - section (1) , are complied with; Provided that before granting such permission, the authorised officer / shall give an opportunity of being heard to the agriculturist or agricultural labourer concerned.

(3) If such owner fails to provide the alternative site as permitted by the authorised officer

1.Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

within the prescribed period or if such owner fails to comply with any direction given under sub - section (2) in regard to payment of costs, the agriculturist or agricultural labourer shall continue to be the owner of the original kudiyruppu under sub - section (1) of section 4.

(4) If such owner provides an alternative site in pursuance of the permission granted under sub - section (1), the agriculturist or agricultural labourer concerned shall be given an opportunity to occupy the alternative site within such period as may be prescribed and he shall be deemed to have become the owner of such kudiyruppu from the date on which he so occupies the same and such alternative kudiyruppu shall with the super - structure thereon, if any, with effect from such date be deemed to have vested in him absolutely free from all encumbrances and the site of the original kudiyruppu shall revert to the owner.

(5) The amount payable under clause (a) of sub - section (2) of section 8 shall be determined for the kudiyruppu deemed to have vested under sub - section (4) and in case payment has already been made for the original kudiyruppu, the difference, if any, between the amount already paid for the original kudiyruppu and that payable for the kudiyruppu deemed to have vested shall be paid to, or collected from the owner, as the case may be.

(6) (a) Where any agriculturist or agricultural labourer fails or refuses to shift to the alternative site provided by the owner in pursuance of a permission granted under sub - section (1) within such period as may be prescribed, such agriculturist or agricultural labourer shall not be entitled to the benefits of this Act but shall continue to be occupants of kudiyruppu (protection from Eviction) Act, 1970.

(b) The amount, if any, paid by the owner to such agriculturist or agricultural labourer under sub - section (2) shall, on his failure to shift the original kudiyruppu to the alternative site, be recovered from him as if it were an arrear of land revenue and shall be refunded to the owner within such period and in such manner as may be prescribed.]¹

Decision by Authorised officer.

² [5. (1) If any dispute arises as to whether -

(a) any person is an agriculturist or an agricultural labourer; or

(b) any land is an agricultural land; or

(c) any site is a kudiyruppu; or

(d) any area adjacent to a dwelling house or hut is necessary for the convenient enjoyment of such dwelling house or hut; or

(e) any agriculturist or agricultural labourer was occupying any kudiyruppu on the 27th day of March, 1972; or

(f) any agriculturist or agricultural labourer is having any house or house site or hut of his own, such dispute shall be decided by the authorised officer.]

(2) In deciding the dispute under sub - section (1), the authorised officer shall follow such procedure as may be prescribed.

1. Inserted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983.

2. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

Appeal

6. (1) Any person aggrieved by the decision of the authorised officer ¹ [under section 4A or section 5,] may within such period as may be prescribed, appeal to the collector, or such other officer as may be authorised by the Government in this behalf.

(2) In deciding the appeal under sub - section (1), the collector or the officer referred to in sub - section (1), shall follow such procedure as may be prescribed.

Right to receive amount

7. Every person having any interest in any vested kudiyruppu or superstructure shall be entitled to receive and be paid the amount as provided hereunder.

Amount

8. (1) The amount payable in respect of any vested kudiyruppu or superstructure shall be as specified in the schedule.

(2) (a) The authorised officer shall, after holding an inquiry in the prescribed manner determine by order the amount payable under sub - section (1) and publish the said order in the official Gazette.

(b) A copy of the said order shall be communicated to the person who immediately before the date of commencement of this Act owned the kudiyruppu or superstructure and to every person interested therein.

(3) Where the owner of the kudiyruppu and the owner of the superstructure on such kudiyruppu are different, the authorised officer shall apportion the amount between the owner of the kudiyruppu and the owner of the superstructure.

Appeal

9. Any person who does not agree to the amount as determined by the authorised officer under sub - section (2) of section 8 may prefer an appeal to the court within such period as may be prescribed.

Apportionment of amount

10. (1) Where several persons claim to be interested in the amount determined under sub - section (2) of section 8, the authorised officer shall determine --

(a) the persons who, in his opinion, are entitled to receive such amount; and

(b) the amount payable to such of the persons referred to in clause (a).

1. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

(2) If any dispute arises as to the apportionment of the amount or any part thereof or as to the persons to whom the same or any part thereof is payable, the authorised officer may refer such dispute to the decision of the court and the court shall in deciding any such dispute, follow as far as may be the provisions of part III of the Land Acquisition Act, 1894. [Central Act 1 of 1894]

Payment of amount

11. ¹ [(1) After the amount has been determined, the Government shall pay it to the persons entitled there to.]¹

(2) If the persons entitled to the amount do not consent to receive it or if the authorised officer is satisfied that the kudiyruppu or superstructure in respect whereof the amount is to be awarded belonged to any person who had no power to alienate the same, or if there is any dispute as to the title to receive the amount, or as to the apportionment of it, the authorised officer shall deposit the amount in the court and the court shall deal with the amount so deposited in the manner laid down in section 32 and section 33 of the land Acquisition Act, 1894. [Central Act 1 of 1894]

Second appeal to High court in certain cases

12. Subject to the provisions of the Code of Civil Procedure 1908 [Central Act 5 of 1908] applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall only lie to the High court from any decision of the court under this Act if the amount as determined by the authorised officer exceeds such amount as may be prescribed.

Power of Authorised officer to call for information

13. (1) The authorised officer may, for the purpose of carrying out the provisions of this Act, by order require any person to furnish such information in his possession relating to any vested kudiyruppu or superstructure.

(2) The authorised officer shall, while holding an inquiry under this Act, have all the powers of a civil court, while trying a suit under the code of civil procedure, 1908, [Central Act 5 of 1908] in respect of the following matters, namely:-

- (a) Summoning and enforcing the attendance of any person examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witness.

1. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

Mode of payment of amount

14. (1) The amount as finally determined under this Act shall within such period as may be prescribed, be paid either in cash or in bonds or partly in cash and partly in bonds as the Government may prescribe.

(2) (a) The bonds shall be issued on such terms and carry such rate of interest as may be prescribed.

(b) The interest shall be paid in the case of any kudiyruppu or superstructure with effect from the date of vesting ¹ under the provisions of this Act.

15. ² [omitted]

Issue of title deed

16. ¹ [The authorised officer shall issue a title deed in such form and imposing such conditions as may be prescribed to every occupant of kudiyruppu in whom the kudiyruppu and the superstructure, if any, has vested under the provisions of this Act].

Prohibition of transfer of kudiyruppu or superstructure

17. ¹ [(1) The rights of a person in whom the kudiyruppu or superstructure has vested under the provisions of this Act are heritable but not alienable:

Provided that such person or his heir or legal representative may surrender at any time, the kudiyruppu with or without superstructure, as the case may be, free from all encumbrances to the Government.

(2) Any transfer made in contravention of sub - section (1) shall be void and the kudiyruppu with or without superstructure, as the case may be, so transferred shall vest in the Government free from all encumbrances from the date of such transfer and no claim from the transferee shall lie as against Government in respect of such kudiyruppu with superstructure, if any.

(3) where any kudiyruppu with or without any superstructure, as the case may be is surrendered under the proviso to sub - section (1), any amount which the original occupant or heir or legal representative or such person has already paid to the Government before the date of publication of the Pondicherry Occupants of Kudiyruppu (Conferment of Ownership) (Amendment) Act, 1982 shall be refunded within such period and in such manner as may be prescribed to the person entitled to receive it.

(4) The kudiyruppu with or without superstructure, as the case may be, surrendered to or vesting in the Government under the proviso to sub - section (1) or under sub - section (2) may be allotted to any agriculturist or agricultural labourer by the Government and on such allotment, the kudiyruppu with or without superstructure, as the case may be, shall vest in such agriculturist or agricultural labourer and the provisions of this Act shall apply to such vesting.

(5) In the event of the death of any person in whom the kudiyruppu, with superstructure, if any had vested under the provisions of this Act, the person to whom the title of the deceased may be transferred as heir or otherwise shall give notice of such transfer to such officer and in such form as may be prescribed, within three months from the date of death of the deceased.

1. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

2. omitted by Notification No.424/Leg./-LLD dt 21-06-1983 Published in E. O. G. No.21 dt. 21-06-1983

(6) The person to whom the title passes shall, if so required be bound to produce before the officer prescribed under sub - section (5) any document evidencing such succession.]

Transitional provision in regard to certain liabilities

18. (1) All claims and liabilities in respect of the kudiyruppu or the superstructure enforceable immediately before ¹ [or the date of vesting of the kudiyruppu or the superstructure, as the case may be] of this Act against any person interested shall on or after that date, be set off against the amount payable to the person interested under this Act to the same extent to which such claims and liabilities were enforceable against such person, immediately before such date.

(2) (a) A court shall on or after ¹ [or the date of vesting of the kudiyruppu or the superstructure, as the case may be] order or continue execution in respect of any decree or order passed against the person interested in conformity with the provisions of sub - section (1) only as against the amount payable to such person.

(b) No court shall, in enforcing any claim or liability against the person interested in respect of any kudiyruppu or superstructure, allow interest at a rate exceeding six percent per annum simple interest for any period after the date of the commencement of this Act.

Power to acquire land used for common purposes

19. (1) Where the Government is satisfied that any land is used by the occupants of kudiyruppu immediately before the date of this Act for a common purpose, it may acquire the land by publishing in the official Gazette a notification to the effect that it has decided to acquire the land in pursuance of this section.

Provided that, before publishing a notification, the Government may call upon the owner or any other person, who in the opinion of the Government, may be interested in such land to show cause why it should not be acquired; and after considering the cause, if any shown by the owner or any other person interested in the land, the Government may pass such orders as it deems fit.

(2) When a notification under sub - section (1) is published in the official Gazette, the land to which the said notification relates shall, on and from the date on which the said notification is so published, vest absolutely in the Government free from all encumbrances.

(3) The Government shall make available the land acquired under this section to be used by the occupants of kudiyruppu for the same common purpose for which it was used immediately before the date referred to in sub - section (2).

(4) Every person having any interest in any land acquired under this section shall be entitled to receive and be paid an amount as specified in the schedule.

(5) Save as otherwise provided in this section, the provisions contained in section 9 to 14 (both inclusive) 18, 20 to 22 (both inclusive) shall apply to the land acquired under this section as they apply to the vested kudiyruppu or superstructure.

Explanation:- For the purpose of this section, common purpose includes the use of land for road, pathway, threshing - floor and cattle stand.

1. Substituted by Notification No. 424/Leg./83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

Service of notices and orders

20. (1) Save as otherwise provided in this Act and subject to the provision of this section and of any rule made in this behalf, every notice issued or order made under this Act shall --

(a) In the case of any notice or order of a general nature or affecting a class of persons, be published in the official gazette;

(b) In the case of any notice or order affecting any company or other body corporate or any firm, be served in the manner provided for the service of summons in rule 2 of XXIX or rule 3 of order XXX, as the case may be, in the First schedule to the Code of Civil Procedure, 1908; [Central Act 5 of 1908] and

(c) In the case of any notice or order affecting an individual person (not being a company or other body corporate or firm), be served on such person; or

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to the head of the office in which such person is employed, or to any adult male servant of such person or to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gains; or

(iii) failing service by any of the means aforesaid, by post or by affixing a copy of the said notice or order on some conspicuous part of the kudiyruppu or superstructure to which it relates.

(2) Where the notice or order cannot be served without undue delay, due to any dispute in the ownership of the kudiyruppu or the superstructure or due to the person to whom the notice or order is intended being not readily traceable the notice or order may be served by publishing it in the Official Gazette, and where possible by affixing a copy thereof on some conspicuous part of the kudiyruppu or superstructure to which it relates.

Power of entry

21. It shall be lawful for any person authorised by the authorised officer in this behalf to enter into or upon any kudiyruppu or superstructure with or without assistants for purposes of giving effect to the provisions of this Act.

Penalties

22. Any person who obstructs any officer or person authorised by the authorised officer to enter into or upon any kudiyruppu or superstructure or molests such officer or person after such entry, shall be punishable with fine which may extend to one thousand rupees.

Offences by companies

23. (1) If a person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub - section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Not with standing any thing contained in sub - section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with

the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purpose of this section,

(a) "company" means a body corporate and includes a firm or other association of individuals;

(b) "director" in relation to a firm, means a partner in the firm.

Prosecution and trial of offence.

24. (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the authorised officer.

(2) No court inferior to that of a salaried magistrate of the first class shall try any offence punishable under this Act.

Bar of jurisdiction of civil court

25. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or the authorised officer is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Authorised officer, etc. to be public servants

26. The authorised officer and any person authorised by him under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. [Central Act 45 of 1860]

Protection of action taken in good faith

27. (1) No suit, prosecution or other legal proceeding shall lie against the Government or any person exercising any power or discharging any functions or performing any duties under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or order, legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to override other laws

28. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

Power to make rules

29. (1) The Government may make rules for carrying out all or any of the provisions of this Act.

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

¹ [(a) The distance from the existing kudiyruppu and the period within which in alternative site may be provided under sub - section (1) of section 4A, the other conditions that such site shall satisfy and the period within which costs determined by the authorised officer under sub - section (2) of that section shall be paid, the period within which the agriculturist or agricultural labourer shall shift to the alternative site and the period within which and the manner in which refund shall be made under sub - section (6) of that section;

(aa) the procedure to be followed by the authorised officer in deciding a dispute under sub - section (1) of section 5.] ¹

(b) the period within which an appeal may be preferred under sub - section (1) of section 6 to the collector or such other officer as may be authorised by the Government in this behalf and the procedure to be followed by such collector or other officer in deciding such appeal.

(c) the manner in which an inquiry may be held by the authorised officer under section 8;

(d) the period within which an appeal may be preferred to the court under section 9;

(e) the maximum amount in respect of which a second appeal may lie to the High court under section 12;

(f) the period within which, and the terms and the rate of interest at which, amount is payable under section 14 to the persons interested;

² [(g) and (h) shall be omitted] ²

(i) the form of title deed to be issued under section 16 and the conditions governing it;

³ [(j) the period within which and the manner in which the amount shall be refunded under sub - section (3) of section 17 and the form in which and the officer to whom a notice is to be given under sub - section (5) of that section;] ³

(k) the fee payable in respect of any appeal, application or statement under this Act;

(l) any other matter which has to be, or may be prescribed.

1. Inserted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983.

2. Omitted vide Notification No. 424/Leg. 83-LLD dt 21-06-83 Published in E.O.G. No. 21, dt 23-06-83.

3. Substituted vide Notification No. 424/Leg. 83-LLD dt 21-06-83. Published in E.O.G. No. 21, dt 23-06-83.

(3) Every rule made under this Act shall, as soon as may be after they are made, be laid before the legislative Assembly of Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the sessions in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that any such rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE
(See Section 8 (1) AND 19 (4))

1. The amount payable in respect of the kudiyiruppu or the land shall be one hundred times the survey assessment on the kudiyiruppu or the land, as the case may be:

Provided that where the kudiyiruppu or the land forms part of a survey field and is not separately assessed to revenue, the amount payable for such kudiyiruppu or land shall be deemed to be one hundred times such proportion of the survey assessment as the part bears to the entire survey field;

Provided further that where the survey field in which the kudiyiruppu or land exists is unassessed, the amount shall be determined with reference to the highest rate of survey assessment of the village and where no such rate exists the highest rate of survey assessment of the village situated nearest to the kudiyiruppu, or land as the case may be.

Explanation:- For the purposes of this paragraph, "survey assessment" means the land tax levied in accordance with the Deliberation of the Council General dated the 24th December 1933 enforced by the Arrete dated the 22nd August 1934 and includes fifty percent surcharge levied pursuant to the Deliberation dated the 20th September 1950 enforced by the Arrete dated 4th December, 1950.

2. The amount payable in respect to the super-structure shall be the market value of such superstructure.

Explanation:- For the purpose of this schedule -

(i) "kudiyiruppu" means the kudiyiruppu vested in the occupant of kudiyiruppu ¹ under the provisions of this Act.

(ii) "land" means the land acquired under section 19, and

(iii) "superstructure" means the superstructure on the kudiyiruppu vested in the occupant of kudiyiruppu ¹ under the provisions of this Act.

1. Substituted by Notification No. 424/Leg.83-LLD dt 21-06-1983 Published in E. O. G. No.21, dt 23-06-1983

THE PONDICHERRY REDUCTION
SUSPENSION AND REMISSION OF
ASSESSMENT ORDERS, 1975.

GOVERNMENT OF PONDICHERRY

REVENUE DEPARTMENT

No. 2297/70/C.

Pondicherry, the 29th October 1975.

NOTIFICATION

S. O. No. 44-In exercise of the powers conferred by sub-section (2) of section 9 of the Pondicherry Settlement Act, 1970 (No. 28 of 1970) read with rule 6 of the Pondicherry Settlement Rules, 1970, the Lieutenant-Governor, Pondicherry, hereby makes the following orders namely :-

CHAPTER-I

Short title, extent and commencement.

1. (1) These orders may be called the Pondicherry Reduction Suspension and Remission of Assessment Orders, 1975.

(2) They shall extend to the whole of the Union territory of Pondicherry.

(3) They shall come into force in each of the regions from the dates on which the settlement rates fixed as per the provisions of the Pondicherry Settlement Act, 1970 (No. 28 of 1970) are respectively brought into force.

Definitions.

2. In these orders, unless the context otherwise requires,-

(a) " Act " means the Pondicherry Settlement Act, 1970 (No. 28 of 1970);

(b) Deputy Collector (Revenue) includes the Sub-Collector / Assistant Collector where such officer exists;

(c) " Mamul waste " means lands which are not cultivated regularly in a normal year and which, it may be presumed would have been kept uncultivated even if the season and water-supply had been normal;

(d) Revenue Officer means the Deputy Tahsildar incharge of a Sub-Taluk or the Tahsildar incharge of a Taluk as the case may be.

(e) " rules " means the Pondicherry Settlement Rules, 1970;

(f) " Tahsildar " means the Tahsildar incharge of a Taluk and includes the Deputy Tahsildar incharge of a Sub-Taluk.

CHAPTER II

GENERAL REMISSION

Notice of intention to ask for remission.

3. (1) A ryot who desires to be granted remission shall apply in writing to the Revenue Inspector/Tahsildar/Deputy Collector (Revenue) before a date to be notified by the Collector in respect of harvest time so as to allow inspection of crops by Revenue officials. If the ryot fails to apply within the due time it is open to the competent authority to refuse remission in cases in which crop has been cut or grazed by cattle before inspection. Every endeavour shall be made to complete the field inspection promptly.

(2) In special cases the Deputy Collector (Revenue) may, at his discretion, dispense with the submission of written applications and he may also, for sufficient grounds, condone delays in submitting such applications. The absence of application shall not ordinarily be treated as a disqualification where inspection of crops has established the existence of the conditions required to make the land eligible for remission.

(3) The Deputy Collector, after collecting all the applications (whether received by the Revenue Inspector or by the Tahsildar or by himself) from an affected area, send a report to the Collector, stating the total extent of damaged area, value of crops damaged, value of loss in produce and the financial implications involved in granting a partial/full remission, with his recommendations.

(4) The Collector, on receipt of the report from the Deputy Collector (Revenue) may order the Deputy Collector (Revenue) to proceed further in issuing notifications instructions etc. regarding the remission granted areawise.

Remission to be granted only for entire fields.

4. (1) Remission shall be granted only when an entire survey field or recognised subdivision thereof is left waste (other than mamul waste) or when the crop in its entire area has totally failed, and not for portions of fields, but in cases in which a portion of a survey field is left waste (other than mamul waste) and the crop on the remaining portion is lost the assessment on the whole field will be remitted.

(2) When in a registered survey field, there is a portion covered by field or drainage channel or even a small kalam (threshing floor) such channels and kalams serve bona fide agricultural purposes, and the fact that the area covered by them has not been cultivated should not, therefore, be reckoned as an argument against the grant of remission. If the yield or loss of the crop in the rest of the field warrants remission, the remission must apply to the whole of the field, including the area covered by the channels, etc. Or if the cultivable area in such a field is eligible for remission with reference to the actual yield or loss of the crop on that area, the entire field, including the uncultivable portions, will be eligible for remission on the same scale.

(3) But if a registered survey field contains an uncultivated area, which serves no useful agricultural purpose as, for example, a high level ground, which is just left waste year after year, without any attempt being made to reclaim it and bring it under cultivation, it must be measured and the proportionate assessment charged for it. If, on the other hand, such uncultivated area is trivial in extent it may be ignored and remission granted as indicated in clause(2) of this order.

Constructive total loss.

5. Remission shall be granted only when the field is left waste other than mamul waste or the crop is totally lost. It shall be left to the discretion of the Collector to determine whether in any particular case the loss over the field as a whole may reasonably be rated as total.

Remission when dry crops are cultivated on wet lands

6, Where, owing to deficiency of water, dry crops are cultivated on wet land which must otherwise have remained waste, only dry assessment shall, subject to the provisos stated in rule 6, be charged. By "dry assessment" is meant, the dry rate corresponding to the particular class and sort which the land bears as wet. This dry assessment will be levied on entire survey fields or recognised subdivisions thereof irrespective of the extent cultivated. If one portion of a survey field or subdivision is cultivated with dry crops and another with wet, the concession contemplated in this order will apply if the wet crop is totally lost.

Partial remission where a dry crop is grown on wet land.

7. (1) As provided in rule 6(i) (ii), when a dry crop is grown on single-crop wet land, but water becomes available in the irrigation source during any portion of the year, when it can be used for growing a wet crop, the usual wet assessment shall be levied. Where, however, no supply is received or the supply is received at a time when it cannot be used or in quantity insufficient for raising a wet crop, only the dry assessment shall be charged if the crop is not irrigated. If the dry crop is irrigated with Government water the Collector may, at his discretion, charge either the full wet assessment on the entire field or the water rate prescribed for the crop, in any law for the time being in force, on the extent actually irrigated in addition to the dry assessment on the entire field, provided that in the latter case the combined charge does not exceed the single wet assessment on the entire field.

(2). In the case of a wet field cultivated at the same time with more than one irrigated dry crop liable to different rates of water cess if any prescribed under any law for the time being in force, the rate of water-cess prescribed for the crop which covers the largest extent shall be applied to the total extent irrigated.

Remission on compounded and other registered double crop wet lands.

8.(1) The concession contemplated in orders 6 and 7 will also apply to compounded and other registered double-crop wet land; but it must be distinctly understood that double-crop wet lands may be charged dry assessment only if all the crops grown are dry and the water received in the irrigation source is not sufficient to raise a wet crop and is not used to irrigate any of the crops grown. If one or more crops are irrigated, the appropriate water-cess if any prescribed in any law for the time being in force shall be chargeable for each crop on the extent actually irrigated in addition to the dry assessment on the entire field:

Provided that the combined charge does not exceed the following maxima , namely:-

- (i) Compounded double-crop lands. The compounded double crop rate.
- (ii) Other registered double-crop wet lands,-
 - (a) When one crop is irrigated- Single wet assessment.
 - (b) When two crops are irrigated - The consolidated double-crop wet assessment.

(2) In the case of wet field cultivated at the same time with more than one irrigated dry crop liable to different rates of water-cess if any prescribed under any law for the time being in force the rate of water-cess prescribed for the crop which covers the largest extent shall be applied to the total extent irrigated in the field.

(3) If the water received in the irrigation source is sufficient to raise a wet crop, wet rate shall be charged as follows whether the dry crops grown are irrigated or not :-

(1) Compounded double crop wet lands - The compounded double crop rate.

(2) Other registered single crop wet lands. -

(a) When water is sufficient to raise one wet crop - Single wet assess

(b) When water is sufficient to raise two wet crops - The consolidated double crop wet assessment.

Seed-beds not to be excluded.

9. In deciding claims for remissions, seed-beds should not be excluded from the benefit of the concession.

Mamul waste.

10. No remission will be given in respect of mamul waste.

Deputy Collector (Revenue) may suspend collection of assessment temporarily.

11. Deputy Collectors (Revenue) may suspend temporarily the collection of assessment which are practically certain to be remitted under this chapter by an order in writing detailing the reasons upon which it is based and submitting forthwith copies of such order to the Collector.

CHAPTER III

SPECIAL REMISSION

A. Widespread calamities

Revenue Officers to take the initiative and submit proposals for suspension or remission.

12. In seasons of exceptional drought or famine, or of distress caused by floods, etc., the revenue officers should take the initiative and make arrangements, as soon as the unfavourable character of the season has declared itself, for a thorough inspection of the crops and the submission, if necessary, of proposals for, suspension or remission of assessment, on the lines indicated in orders 13 to 17, for the consideration and orders of the Government.

Circumstances to be considered in deciding whether any relief is necessary and whether it should take the shape of suspension or remission.

13. In submitting proposals for the grant of relief and as to the form it should take, the Collector should be guided by the considerations laid down in these orders.

Suspension of revenue.

14. Any suspension of the collection of assessment must relate to a definite period which should not ordinarily extend beyond the current fasli. The suspension can be sanctioned only by the Government. Any order granting a suspension of revenue should be made public before the date of collection arrives. Therefore as soon as an order, directing the postponement of the collection of a kist has been made, it shall be promptly published for the information of the ryots of the villages concerned by beat of drum and other means, besides publication in the Official Gazette.

In all cases in which postponements of kists extend beyond the financial year in which the kists are due, the Collector should furnish to the Government, in the Revenue and the Finance Departments information as to the financial effect of such postponements on the revised estimate for the financial year in which the kists are due as well as the budget estimate for the financial year to which the kists are postponed.

Remission of Revenue.

15. (1) When the crop on wet lands is totally lost remission may be granted under the provisions for ordinary remissions contained in Chapter II. When the crop on wet lands is partially lost, remission may, if sanctioned by Government, be granted with reference to the average loss in the whole area in which such remission is granted.

(2) The Collector may, when framing proposals for granting remission, include wet mamul waste in the area for which relief is proposed, provided that the land could not in any case have been cultivated owing to want of water and provided that his reasons for thinking that the holders of such land require special relief are at the same time fully explained.

(3) Where it is impossible to determine a uniform rate for any given area, as in cases where the loss though considerable, is confined to limited areas, such as the ayacut of a small tank, the Collector may recommend for special sanction the grant in lieu of an all-round percentage remission, of remission on those portions of recognised fields on which the crop has been totally lost, provided that the fields in respect of which remission is applied for have been properly inspected and the loss thereon duly verified.

(4) For loss of crop on dry lands including those lying in the water spread of Government irrigation sources and assessed at special rates, remission may be granted if sanctioned by Government in accordance with the scale given in the next clause, but it must be given at uniform rates calculated not with reference to individual losses, but with reference to the average loss in the whole area to which the relief is granted.

(5) (i) Subject to the provisions contained in orders 6 and 7, no relief will be granted in respect of areas in which the average yield is one-half of the ordinary yield or more and when it is less, remission will ordinarily be granted within the following scale at the discretion of the Government:

A. Dry lands.

- | | | |
|--|-----|-----------------|
| (a) For crops which have yielded an outturn of 25 %
or less than 25 % of the normal outturn | ... | Full remission. |
| (b) For crops which have yielded an outturn of over 25 %
and below 50 % of the normal outturn | ... | Half remission. |

B. Wet lands.

- | | | |
|---|----|-----------------|
| (a) Wet lands where there was not even a single harvest and where the outturn was 25 %
or less than 25 % of the normal outturn | .. | Full remission. |
|---|----|-----------------|

- (b) Wet lands with an outturn of over 25 % and below 50 % of the normal outturn
.. Half remission.

(ii) In estimating the average outturn of an affected area in respect of dry lands, the crop on all protected lands, i.e., lands irrigated by wells, etc., all lands occupied by permanent topes (date, palmyra, etc.), as well as dry mamul waste lands shall be excluded, but the crop on other fields which may have yielded fairly as well as land which has been left uncultivated owing to failure of rain shall be included.

Relief on land left waste.

(6) For occupied waste other than mamul waste within the area, the same rate of relief shall be given as for land on which the crop has failed.

Lands cultivated without permission

16. Any concession allowed to occupied lands may be allowed to lands cultivated without permission, provided that the Deputy Collector (Revenue) is satisfied that the cultivation is otherwise unobjectionable.

Refunds

17. In all cases, where remission is granted, amounts already paid may be refunded according to the rules in force for the time being.

Amounts due to local bodies.

18. Suspension and remission of land revenue will not ordinarily carry with them suspension and remission of amounts due to local bodies and the Collector shall consider the same when recommending what proportion of the land revenue shall be suspended or remitted. But when an instalment of the land revenue of any village is entirely suspended or remitted, the demand on account of any amount should be temporarily suspended and realised with the next instalment or land revenue that is actually collected, in order to save the individual revenue payers from being harassed by petty demands in time of distress.

Method of collecting suspended revenue.

19. Before the collection of suspended revenue is carried out, some time shall be allowed to ryots to recover from the effects of the bad season which has necessitated the suspension. The revenue suspended under order 14 shall therefore not be collected until one fair harvest subsequent to the failure has been reaped. The Collector shall, about two months prior to the commencement of the collection season of the year following that in which revenue was suspended, submit for the consideration and order of the Government a report as to how the early crops of that year have fared and whether the whole of the suspended revenue and, if not, what portion thereof, can be collected with the current kists. Similar reports as to portion of the suspended revenue to be collected with subsequent kists shall be submitted in succeeding years until the whole of the suspended revenue is either realised or written off.

Circumstances justifying remission of suspended kists

20. Revenue which has been under suspension for three years shall ordinarily, and as a matter of course, be remitted. Further, the amount of revenue under suspension at any given time shall not, as a rule, exceed the revenue demand of an ordinary year. When the amount suspended exceeds this limit, remission of the excess may ordinarily be recommended to the Government. These

concessions are not applicable, as a matter of course, to unirrigated tracts of fertile soil where on account of the uncertainty of rainfall or other causes the revenue is pitched so low that in a really bumper year the people could, without hardship, afford to pay very much more than the revenue of a single year.

Example:-Revenue falling due in fasli 1382 is to be considered to have been under suspension for three years for the purpose of this order, if it is not collected in faslis 1382, 1383 or 1384.

B.Local calamities.

Orders in regard to the relief to be granted.

21. The provisions contained in orders 12 to 20 in regard to the relief to be granted on occasions of widespread calamity will also apply generally to the relief of distress caused by local calamities, subject to the following modifications:-

(i). Such relief, instead of being given on the same scale throughout the area affected, shall, as a rule, be based on a field-to-field inspection directed to the determination of the actual damage suffered by each individual:

(ii). The decree of relief to be granted will, instead of being regulated by the rates prescribed in order 15 (4), be determined by Government with reference to the circumstances of each particular case:

(iii). In deciding whether relief is necessary or not, regard should be had not merely to the field affected but to the entire property or holding of the landlord or ryot to whom the field belongs and by whom relief is applied for:

The Pondicherry Vacant Lands in Urban
Areas (Prohibition of Alienation)
Regulation, 1976

**THE PONDICHERRY VACANT LANDS IN URBAN AREAS (PROHIBITION OF ALIENATION)
REGULATION, 1976**

No. 2 of 1976

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

A Regulation to prohibit alienation of certain vacant lands in certain areas in the Union territory of Pondicherry.

In exercise of the powers conferred by the second provision to clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent, commencement and duration.

1. (1) This Regulation may be called the Pondicherry Vacant Lands in Urban Areas (Prohibition of Alienation) Regulation, 1976.

(2) It extends to the whole of the Union territory of Pondicherry.

(3) It shall come into force at once.

(4) It shall remain in force for a period of one year and upon its expiry, the provisions of section 6 of the General Clauses Act, 1897 as made applicable under section 2 of the Pondicherry General Clauses Act, 1965, shall apply as if this Act had then been repealed by a Pondicherry Act.

Definitions

2. In this Regulation, unless the context otherwise requires—

(a) " appointed day " means the date of commencement of this Regulation;

(b) " Collector " means the Secretary to Government Revenue Department, Pondicherry and includes the Sub-Collector (Revenue), Assistant Collector (Revenue) and Deputy Collector (Revenue) having jurisdiction in any of the regions of Pondicherry, Karaikal, Mahe and Yanam in the Union territory of Pondicherry;

(c) " compact block " means any block of vacant land in an urban area, exceeding five hundred square metres in extent;

(d) " Government " means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution;

(e) " person " includes an individual, an undivided Hindu family, a trustee, a company, a society or an association of individuals, whether incorporated or not;

(f) " prescribed " means prescribed by rules made under this Regulation;

(g) " trust " includes a trust created for public purposes of a charitable or religious nature;

(h) " urban area " means—

(1) any area which is comprised in any planning area declared as such by the Government under section 8 of the Pondicherry Town and Country Planning Act, 1969;

(2) any other area which the Government may, by notification in the Official Gazette, declare to be an urban area, having regard to any project existing in that area on the appointed day or having regard to the possibility in the near future of any such project, being established in that area where any such project, in the opinion of the Government, has led to, or is likely to lead to, urbanisation of that area;

(i) " vacant land " means land in an urban area, agricultural or non-agricultural, other than land on which any building has been or is being constructed in accordance with any law regulating such construction and the land appurtenant to such building, to the minimum extent required under such law or under the provisions of the Pondicherry Town and Country Planning Act, 1969, or any other corresponding law for the time being in force.

Explanation.— For the purpose of this clause, any land which is vacant on the appointed day shall be deemed to be vacant land, notwithstanding that the construction of any building thereon has been commenced on or after the said day.

Prohibition of alienation, etc.

3. (1) No person who owns any vacant land shall, on or after the appointed day, alienate such land by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, or effect a partition or create a trust of such land; and any alienation made, or partition effected, or trust created in contravention of this section shall be null and void:

Provided that nothing in this sub-section shall apply to the alienation by any person of any one plot of vacant land owned by him not exceeding five hundred square metres in extent and not forming part of a compact block or to the effecting of a partition or creation of a trust of any such plot.

(2) The provisions of sub-section (1) shall apply to any sale, partition or creation of trust of vacant land of any person in execution of a decree or order of a civil court or any award or order of any other competent authority.

Restrictions on registration of documents

4. Notwithstanding anything contained in the Registration Act, 1908— (Act 16 of 1908)

(a) no document relating to alienation of a vacant land or to partition or creation of a trust of such land shall be registered on or after the appointed day by any registering officer appointed under the said Act unless the person presenting the document furnishes a declaration by the transferor in the prescribed form, which shall be subject to verification in the prescribed manner—

(i) that the plot of vacant land owned by him and intended to be alienated or partitioned, or, as the case may be, in respect of which a trust is intended to be created does not exceed five hundred square metres in extent;

(ii) that such vacant land does not form part of a compact block; and

(iii) that no other plot of vacant land or no plot of vacant land, other than a plot of vacant land to which the provisions of this Regulation do not apply under section 3, section 5 or section 6, owned by him has been alienated or partitioned on or after the appointed day, or that no trust has been created in respect of such plot on or after the appointed day;

(b) a document relating to alienation or partition of any vacant land or the creation of any trust for any vacant land registered on or after the appointed day, shall, for the purposes of section 3, take effect and operate only from the date of such registration.

Regulation not to apply in certain cases

5. (1) Nothing in this Regulation shall apply to any transfer of vacant land by or in favour of—

(a) the Government of the Union territory of Pondicherry, or a State Government or the Central Government or a local authority;

(b) a Government Company as defined in section 617 of the companies Act, 1956;(Act No:1 of 1956)

(c) a corporation established by or under a Central, Provincial or State Act, which is controlled or managed by the Government of the Union territory of Pondicherry or a State Government or the Central Government;

(d) such co-operative house building societies established for the purpose of providing housing accommodation to weaker sections of the people, as may be approved by the Government in this behalf:

Provided that in giving such approval, the Government shall have regard to the income of the members of such societies or their social backwardness or such other considerations:

Provided further that, in giving such approval, the Government may impose such conditions as to the alternation in the constitution of the society or in the number of its members, the nature of construction of houses by the society, the area of the land to be obtained and used by the society or its members and such other matters as it may think fit to impose:

Provided also that if any time the Government satisfied that the approval accorded to any society has not served the purpose for which it was accorded, it may withdraw such approval, after giving an opportunity to the society, for making a representation against the proposed withdrawal;

(e) a bank.

(2) Notwithstanding any thing contained (2) of section 3, nothing in this Regulation shall apply to the deposition by sale or other transfer or vacant land directed to be made in execution of a decree or an order of a civil court relating to the recovery of any amount due to the Government or any local authority or bank or in enforcement of any order made or any process employed by any officer or authority under any law for the time being in force for the recovery of such amount.

Explanation.— In this section, a " bank " means—

(i) a banking company as defined in section 5 of the Banking Regulation Act, 1949;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act,1959;

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of under takings) Act, 1970; and

(v) any other financial institution notified by the Government as a bank for the purpose of this Regulation.

Power to exempt.

6. (1) The Government may, by general or special order in writing and for reasons to be recorded therein, exempt any area from the provisions of this Regulation.

(2) The Government may, if it considers it necessary so to do for avoiding any hardship, exempt, by order in writing any alienation or other transfer of any vacant land from the provisions of this Regulation.

(3) Subject to any rules that may be made in this behalf or to any general or special orders of the Government, the Collector may, by order in writing, exempt any alienation or other transfer or any vacant land from the provisions of this Regulation in case the land is being or is to be used for educational, scientific, industrial or commercial purpose or for such other purpose as may be prescribed.

(4) Every order issued by the Government under sub-section (1) or sub-section (2) and by the Collector under sub-section (3) shall be laid before the Legislative Assembly as soon as possible after it is issued.

Alienations, etc., made on or after 1st July, 1975 but before the appointed day

7. (1) Where, on or after the 1st day of July, 1975 but before the appointed day, any person has alienated, whether by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, any vacant land owned by him or has effected a partition or created a trust of any such land, then notwithstanding anything contained in any law for the time being in force, such alienation, partition, or, as the case may be, trust shall, unless it is proved to the contrary, be deemed to have been made, effected, or, as the case may be, created in anticipation in order to defeat the object of this Regulation or any law that may be enacted in future for imposing restrictions on holding property in excess of certain limits in urban areas (hereinafter referred to as the ceiling law), if such alienation, partition, or, as the case may be, trust would have been null and void under the provisions of this Regulation had it been made, effected, or, as the case may be, created on or after the appointed day.

(2) Any person affected by the provisions of sub-section (1) may, within such period, in such form, and on payment of such fees, as may be prescribed, make an application to the Collector for a declaration that the alienation, partition, or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Regulation or of the ceiling law.

(3) On receipt of such application, the Collector hold an inquiry and after giving an opportunity to the alienator and the alienee, to the parties to the partition or, as the case may be, to the creator of the trust and persons interested in the trust, to be heard, by serving them a notice

in such manner as may be prescribed after considering the evidence which may be produced by them, decide whether the alienation, partition, or as the case may be, trust was or was not made, effected or as the case may be, created in order to defeat the object of this Regulation or of the ceiling law, and accordingly may,—

(i) reject the application, or

(ii) by order in writing make a declaration that the alienation, partition, or trust was not made, effected, or as the case may be, created in anticipation to defeat the object of this Regulation or of the ceiling law.

(4) Where no such application has been made within the prescribed period, or where any such application is rejected, the vacant land in respect of which such alienation, partition, or trust was made, effected, or as the case may be created shall, for the purposes of the ceiling law, be deemed to belong to the owner thereof to whom it belonged immediately before such alienation, partition, or trust was made, effected, or as the case may be, created, as if such alienation, partition or trust was made, effected or as the case may be, created, unless the ceiling law provides otherwise.

Supply of information

8. The Government or the Collector may, by general or special order, call upon any person to furnish to it or him such information as would in its or his opinion be useful for, or relevant to, any of the purposes of this Regulation and as may be stated in such order and it shall be the duty of such person to furnish true and correct particulars relating to the information called for.

Appeal against orders of Collector

9. (1) Any person aggrieved by an order of the Collector under sub-section (3) of section 6 or sub-section (3) or section 7 may, within such period, in such form, and on payment of such fees, as may be prescribed, prefer an appeal to the Government.

(2) On receipt of an appeal under sub-section (1) the Government shall, after giving notice to the parties concerned for making representation in the matter, decide the appeal.

Bar of jurisdiction

10. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Regulation required to be settled, decided or dealt with by the Collector or the Government.

Penalty for contravention, etc.

11. (1) If any person contravenes any of the provisions of this Regulation or the rules made thereunder or makes a declaration or furnishes information which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) No court shall take cognizance of an offence punishable under this Regulations except with the previous sanction of the Collector.

Power to make rules

12. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Regulation.

(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 issued or made under this Regulation is to be served or the conditions under which such notice or order shall be deemed to have been served;

(b) the form in which a declaration under clause (a) of sub-section (1) of section 4 shall be furnished and the manner in which such declaration shall be verified;

(c) the period within which, and the form in which, an application under sub-section (2) of section 7 or an appeal under sub-section (1) of section 9 shall be made or, as the case may be, preferred and the fees payable on such application or appeal;

(d) such other matters as are required to be, or may be prescribed.

(3) Every rule made under this Regulation shall, as soon as possible after it is made, be laid before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decided that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, or as the case may be, so, however, that any such modification annulment shall be without prejudice to the validity of any thing previously done under that rule.

Regulation over-ride other laws

13. The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force, or any agreement, or any decree or order of a court, tribunal or other authority or any custom or usage to the contrary.

**THE PONDICHERRY IRRIGATION (LEVY
OF BETTERMENT CONTRIBUTION)
REGULATION, 1976**

(No. 4 of 1976)

**THE PONDICHERRY IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION)
REGULATION, 1976**

(No. 4 of 1976)

Promulgated by the President in the Twenty-sixth year of the Republic of India.

A Regulation to provide for the levy of betterment contribution on certain lands in the Union territory of Pondicherry.

In exercise of the powers conferred by the second proviso to clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him :-

Short title , extent and commencement

1. (1) This Regulation may be called the Pondicherry Irrigation (Levy of Betterment Contribution) Regulation, 1976.

(2) It extends to the whole of the Union territory of Pondicherry.

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

Definitions

2. In this Regulation, unless the context otherwise requires,

(1) "contribution" means the betterment contribution referred to in section 5 or section 6.

(2) "drainage work" includes -

(a) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with, or auxiliary to, such channels ;

(b) escape channels from an irrigation work ;

(c) dams, weirs, embankments, sluices and groynes ;

(d) All works for the protection of land from floods or from erosion, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed, or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person,

but does not include any works for the removal of sewage ;

(3) "execution", in relation to a notified work, means the construction, expansion, or alteration of the notified work ;

(4) "fasli year" means the year commencing on the 1st day July of a year and ending with the 30th day of June of the next year ;

(5) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution.

(6) "improved old ayacut", in relation to a notified work, means all lands which are significantly benefited by the execution of the notified work but does not include the ayacut of any existing irrigation or drainage work which has been merely repaired or restored to its original state after decay or injury.

Explanation I.- For the purposes of this clause, lands shall be deemed to be significantly benefited by the execution of a notified work if such lands -

(a) having been under single-crop irrigation or double-crop irrigation from a Government source of irrigation before the execution of the notified work, continue to be under such irrigation and are provided with a adequate supply or better assured supply of water for irrigation as a result of the execution of the notified work, or

(b) having been liable to non-beneficial submersion or stagnation of water before the execution of the notified work, have been substantially relieved of such submersion or stagnation as a result of the execution of the notified work :

Provided that no land shall be deemed to be significantly benefited if the more adequate supply or better assured supply of water for irrigation referred to in clause (a) of this Explanation or the substantial relief of submersion or stagnation referred to in clause (b) of this Explanation is as a result of mere repairs or restoration of the existing irrigation work or drainage work to its original state after decay or injury.

Explanation II.- For the purposes of Explanation I, the question whether any land -

(a) is provided with a more adequate supply or better assured supply of water for irrigation shall be decided with regard to -

(i) the raising of the irrigation source concerned to a higher settlement classification ;

(ii) supply of larger volume of water or supply of water for a longer duration ; and

(iii) such other like matters as may be prescribed ;

(b) has been substantially relieved of the non-beneficial submersion or stagnation of water shall be decided with regard to -

(i) the improvement of the land on account of the protection from submersion or stagnation or on account of the reduction in the period of submersion or stagnation ; and

(ii) such other like matters as may be prescribed.

Explanation III.- A land shall be deemed to be significantly benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land ;

(7) "irrigation work" includes -

(a) all canals, channels, tanks, wells, reservoirs, ponds, spring ponds and madugues used for the supply or storage of water and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person ;

(b) all such lakes and other natural collections of water or parts thereof, as are situated on lands which are the property of Government ;

(c) all rivers and natural streams or parts thereof ;

(8) "land holder", in relation to any land, means the person who is in enjoyment of the said land and who has been benefited by any irrigation work ;

(9) "new ayacut", in relation to any notified work, means all lands which are benefited by the execution of the notified work.

Explanation I- For the purposes of this clause, lands shall be deemed to be benefited by the execution of a notified work, if such lands -

(a) having been left waste or under unirrigated cultivation before the execution of the notified work, have been brought under irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work, or

(b) having been under single-crop irrigation before the execution of the notified work, have been brought under double-crop irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work.

Explanation II.- A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land ;

(10) "notification" means a notification published in the Official Gazette,

(11) "notified work" means any irrigation work on drainage work, executed on or after the 1st November 1954 and notified by the Collector in the Official Gazette ;

(12) "prescribed" means prescribed by rules made under this Regulation.

New ayacut zones.

3. (1) Any new ayacut in every notified work may be classified into one or more of the following zones, namely :-

(i) wet zone ;

(ii) intermediary zone ; or

(iii) irrigated dry zone.

(2) A wet zone shall comprise all the land for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one wet crop in a fasli year.

(3) An intermediary zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be occasionally sufficient for one wet crop and will be ordinarily sufficient for one irrigated dry crop in a fasli year.

(4) An irrigated dry zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one irrigated dry crop in a fasli year but not sufficient for one wet crop in any fasli year.

Blocks under ayacut zone

4. (1) Every wet zone, every intermediary zone of every irrigated dry zone may consist of Block A, Block B, Block C, as classified below, namely :-

(a) Block A shall consist of contiguous wet lands of class 1, class 2, class 3 or class 4 ;

(b) Block B shall consist of contiguous wet lands of class 5 ;

(c) Block C shall consist of contiguous wet lands of class 6 ;

(2) Dry lands shall be classified according to the corresponding class rates.

Explanation - In this connection, classes 1, 2, 3, 4, 5, and 6 shall refer to the respective classes under which the lands have been registered in the revenue records.

Levy of betterment contribution on the lands in the new ayacut

5. There shall be levied a betterment contribution on every hectare of land in any new ayacut in accordance with the rates specified in the Schedule :

Provided that no betterment contribution shall be levied on any new ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

Levy of betterment contribution on lands in the improved old ayacut

6. (1) There shall be levied a betterment contribution on every hectare of land in any improved old ayacut in accordance with the provisions of this section :

Provided that no betterment contribution shall be levied on any land in any improved old ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

(2) The net expenditure on the notified work shall be ascertained by deducting from the gross expenditure on such work twenty times the annual increase in revenue, if nay, from all the lands

comprised in the improved old ayacut and in the new ayacut and the net expenditure as so ascertained shall be apportioned in the prescribed manner on all lands comprised in the improved old ayacut.

Explanation.- The expression "annual increase in revenue" means the increase in assessment and the increase in water-cess ascertained in the prescribed manner such increase is as a result of the execution of the notified work

(3) The betterment contribution shall, subject to a maximum of one hundred and twenty-five rupees per hectare, be one-third of the net expenditure per hectare of land apportioned under sub-section (2).

Exclusion of certain lands from ayacut in certain cases

7. (1) Any officer of the Revenue Department not below the rank of a Revenue Officer specially authorised by the Government in this behalf (hereinafter referred to as the authorised officer) may, from time to time postpone the inclusion of any land in the ayacut of a notified work for such period as he may by order in writing, specify on the ground that such land requires expensive lowering of the level or on such other ground as may be prescribed.

Explanation.- For the purposes of this sub-section, "expensive lowering of the level" means any reclamation involving expenditure exceeding two hundred and fifty rupees per hectare.

(2) Where the period specified in any order under sub-section (1) expires, the land referred to in that sub-section shall be deemed to be included in the ayacut aforesaid and the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which such land shall be deemed to be included in the ayacut under this sub-section.

(3) Where any land included in the ayacut of a notified work is not fit for the irrigation on the date of such inclusion for such reasons as may be prescribed and is subsequently brought under irrigation the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which the land is so brought under irrigation.

Authorised officer to levy contribution

8. Every authorised officer shall, after following such procedure as may be prescribed, by order, levy the contribution under this Regulation in respect of any land situated within his jurisdiction :

Provided that where the ayacut of a notified work lies within the jurisdiction of more than one authorised officer, the Government may, by general or special order, specify the officer who should levy the contribution in respect of lands in such ayacut.

Appeal

9. (1) Any person aggrieved by an order of the authorised officer with respect to the levy of contribution under this Regulation may prefer an appeal to the prescribed authority in such form, in such manner and within such time, as may be prescribed and such authority may make such order in the case as it may think fit :

Provided that before making any order under this section the prescribed authority shall give a reasonable opportunity to the affected person for making a representation in the matter.

(2) Any order made by the authorised officer with respect to the levy of contribution under this regulation shall, subject to the right of appeal provided in sub-section (1), be final, shall be binding on all persons having interest in the land and shall not be liable to be questioned in a court of law.

Contribution how paid

10. (1) The contribution payable by a land-holder shall be paid by him in annual instalments.

(2) The annual instalments per hectare shall be twelve rupees and fifty paise or one-twentieth of the total amount of the contribution payable by him whichever is higher :

Provided that a land-holder shall be entitled to pay within a period of two years from the date on which he becomes liable to pay the contribution the entire amount of contribution with a rebate at such rate as may be prescribed.

(3) Arrears of instalments of the contribution shall bear interest at the rate of six per cent per annum and such interest shall be recoverable as arrears of land revenue.

When contribution becomes payable

11. (1) The contribution shall become payable under this Regulation on a written notice of demand thereof issued by the authorised officer being served on the land-holder :

Provided that no such notice shall be reserved until the expiry of two years after the date of completion of the execution of the notified work :

Provided further that where, before the commencement of this Regulation, two years or more have elapsed from the date of completion of the execution of the notified work, such notice may be served at any time after such commencement.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than land-holder, who has an interest in the land or on a successor-in-interest of the land-holder or in respect of any instalment of the contribution.

(3) (a) For the purpose of this section, the execution of a notified work shall be deemed to be completed on the date of cessation of all work connected with its execution or on the date when the notified work is ready to be put in actual operation whichever is later,

(b) The date referred to in clause (a) shall be notified by such authority or officer and in such manner, as may be prescribed.

Relinquishment or exchange of land in lieu of payment of contribution.

12. Notwithstanding anything contained in section 10, the Government may allow the owner of the land on which the contribution may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the Government on such conditions as may be prescribed :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrance.

Rebate in certain cases.

13. If the Government accepts any money from any person for the execution of any notified work Land such person becomes liable to pay contribution in respect of any land benefited by such execution, the sum accepted from him shall be credited towards the contribution payable by him.

Payment of contribution by person having interest in land.

14. Any person having interest in a land may, notwithstanding that he is not the land-holder of such land, pay the contribution payable by the land holder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the land-holder becomes liable to pay the contribution, be entitled to a rebate at such rate as may be prescribed.

Right of reimbursement in respect of contribution.

15. Where the land-holder liable to pay contribution under this Regulation is not the owner of the land or is a co-owner of the land, nothing in this Regulation shall be deemed to affect his right to reimbursement from the owner to recover proportionate part from the co-owner, as the case may be.

Apportionment of contribution.

16. Where a land-holder whose case is not covered by section 15 and who has paid an instalment of contribution under this Regulation is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person who is in actual occupation of land during the year in which the said instalment is payable :

Provided that where such person is a tenant, the land-holder shall be entitled to recover from the tenant the instalment of contribution referred to in this section only if the tenant is liable under any law or custom of the locality to deliver to the land-holder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties and the amount that can be recovered from such a tenant shall bear to the total amount of the instalment the same proportion as the tenant's share of the produce bears to the total produce of the land :

Provided further that, where the land-holder has paid the entire contribution with a rebate under the proviso to sub-section (2) of section 10, a twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during every year during which an instalment of the contribution would have been payable, had the entire contribution not been so paid.

Contribution recoverable as arrears of land revenue

17. (1) The contribution payable under this Regulation in respect of any land shall be deemed to be public revenue due upon the said land ; and the land and its products and the buildings (owned and occupied by the land-holder) standing upon the land shall be regarded as the security of the contribution.

(2) When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the law, for the time being in force, relating to recovery of land revenue shall apply to the recovery of the said arrear as they apply to the recovery of the land revenue due on the land.

Exemption

18. If, in the opinion of the Government, the enforcement of all or any of the provisions of this Regulation will cause hardship to any person or class of persons, the Government may, by notification setting out the ground therefor, exempt, either permanently or for a specified period, such person or class of persons from all or any of the provisions of the Regulation, subject to such conditions, if any, as the Government may deem fit to impose.

Delegation of powers

19. The Government may, by notification, direct that any power exercisable by it under this Regulation (except the power to grant exemption under section 18 and the power to make rules under section 21) shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by the Collector or such other authority, as may be specified in the direction.

Regulation deemed not to affect recovery in certain cases

20. Subject to the provisions of section 13, nothing contained in this Regulation shall be deemed to limit or otherwise affect the power of the Government to recover any money which any land-holder of any land included in the ayacut of any notified work may have agreed before the date of the commencement of this Regulation, or may agree after that date, to pay to the Government as a condition precedent to the execution of any such work.

Power to make rules

21. (1) The Government may, by notification, make rules to carry out the purposes of this Regulation and in particular -

(a) for the matters to be prescribed under explanation II to clause (6) of section 2 ;

(b) for the manner of classification of dry lands under sub-section (2) of section 4 ;

(c) for the manner of apportioning the net expenditure, and of ascertaining the increase in assessment and the increase in watercess, under sub-section (2) of section 6 ;

(d) for the procedure to be followed by the authorised officer before the levy of contribution under this Regulation ;

(e) for the appointment of the prescribed authority under sub-section (1) of section 9, the form and manner in which, and the time within which, appeals may be preferred and the fees payable in respect thereof and the procedure which may be followed by such prescribed authority ;

(f) for all matters expressly required or allowed by this Regulation to be prescribed.

(2) Every rule made under this Regulation shall, as soon as possible after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session, in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Saving

22. Nothing contained in this Regulation shall apply to the levy, determination, payment or recovery of contribution from the land-holders of lands which are benefited, or are capable of being benefited, by the construction, expansion or alteration of any irrigation or drainage work, if provision in the behalf is contained in any other law relating thereto and for the time being in force.

**THE TAMIL NADU DEBT RELIEF ACT,
1976 (PRESIDENT'S ACT 31 OF 1976)
AS EXTENDED TO THE UNION
TERRITORY OF PONDICHERRY.**

**THE TAMIL NADU DEBT RELIEF ACT, 1976 (PRESIDENT'S ACT 31 OF 1976) AS EXTENDED TO THE
UNION TERRITORY OF PONDICHERRY.**

GOVERNMENT OF INDIA

(Bharat Sarkar)

Ministry of Home Affairs

(Grih Mantralaya)

New Delhi, the 3rd December 1976.

NOTIFICATION

G. S. R. - In exercise of the powers conferred by section 8 of the Pondicherry (Administration) Act, 1962 (49 of 1962) the central Government hereby extends to the Union territory of Pondicherry, the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976), as in force in the State of Tamil Nadu at the date of this notification, subject to the following modifications, namely : -

MODIFICATIONS

1. Throughout the Act, unless otherwise directed, for the words " State Government " and " *Tamil Nadu Government Gazette* " wherever they occur, the words " Administrator " and " *Pondicherry Gazette* " shall respectively be substituted.

2. In section 1, in sub-section (2), for the words " State of Tamil Nadu " the words " Union territory of Pondicherry " shall be substituted.

3. In section 3,-

(i) clause (a) shall be re-lettered as clause (aa) and, before the clause as so re-lettered, the following clause shall be inserted, namely : -

(a) " Administrator " means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution ;

(ii) in clause (e), the words "State Government" shall stand unmodified ;

(iii) in clause (k), in the *Explanation* for the words " City of Madras or the City of Madurai or the area comprised in a municipal town or a township constituted under any law for the time being in force ", the words and figures " area comprised in a municipality or township declared under the Pondicherry Municipalities Act, 1973 (Pondicherry Act 9 of 1973), shall be substituted ;

(iv) in clause (1),-

(a) for the words "partly in another,-", the words " partly in another, not more than one unit of land " shall be substituted ;

(b) sub-clauses (i) and (ii) and *Explanation* I shall be omitted.

4. In section 4, for the words, figures and brackets " Tamil Nadu Agriculturists Relief Act, 1938, the Tamil Nadu Pawnbrokers Act, 1943, the Tamil Nadu Money-lenders Act, 1957, the Tamil Nadu Debt Relief Act, 1972, the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976, the Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976 ", the words and figures " Madras Pawnbrokers Act, 1943 (Madras Act 23 of 1943), as extended to the Union territory of Pondicherry by the Pondicherry Pawnbrokers Act, 1966 (Pondicherry Act 11 of 1966), the Pondicherry Money-lenders' Act, 1970 (Pondicherry Act 26 of 1970), the Union Territories Relief of Agricultural Indebtedness Regulation, 1976 (1 of 1976) " shall be substituted.

5. In section 5, in sub-section (8), for the words and figures " Tamil Nadu Pawnbrokers Act, 1943 (Madras Act 23 of 1943), the words and figures " Madras Pawnbrokers Act 1943, as extended to the Union territory of Pondicherry by the Pondicherry Pawnbrokers Act, 1966 (Pondicherry Act 11 of 1966)" shall be substituted.

6. In section 13,-

(i) in sub-clause (i) of clause (f), and in sub-clause (iii) of clause (g), the words " State Government" shall stand unmodified ;

(ii) in sub-clause (v) of clause (g), for the words and figures " Tamil Nadu Co-operative Societies Act, 1961", the words and figures " Pondicherry Co-operative Societies Act, 1972 (Pondicherry Act 7 of 1973)" shall be substituted.

7. In section 14, in sub-section (3) for the words "both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree", the words "the Legislative Assembly of Pondicherry and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any rule or directs" shall be substituted.

ANNEXURE

THE TAMIL NADU DEBT RELIEF ACT, 1976 (PRESIDENT'S ACT 31 OF 1976) AS EXTENDED TO THE UNION TERRITORY OF PONDICHERRY.

Enacted by the President in the Twenty-seventh year of the Republic of India.

An Act to provide relief from indebtedness to landless agricultural labourers, rural artisans and small farmers in the State of Tamil Nadu.

In exercise of the powers conferred by section 3 of the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976), the President is pleased to enact as follows : -

1. Short title, extent and commencement.-

(1) This Act may be called the Tamil Nadu Relief Act, 1976.

(2) It extends to the whole of the Union territory of Pondicherry.

(3) It shall come into force at once.

2. Declaration.-

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in article 46 of the Constitution.

3. Definitions.-

In this Act, unless the context otherwise requires,-

(a) ' Administrator ' means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution,

(aa) ' agriculture ' includes,-

(i) horticulture ;

(ii) the raising of crops (including plantation crops), grass or garden produce ;

(iii) dairy farming ;

(iv) poultry farming ;

(v) breeding of livestock ;

(vi) grazing ;

but does not include the cutting of wood only ;

(b) ' agricultural land ' means land used for purposes of agriculture ;

(c) ' annual household income ' means the aggregate of the annual income from all sources of all the members of a family ;

(d) ' creditor ' means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heirs of such person ;

(e) ' debt ' means any liability in cash or in kind, whether secured or unsecured and whether decreed or not, but does not include arrears of taxes due to the Central Government or a State Government or a local authority ;

(f) ' debtor ' means -

(i) a landless agricultural labourer ; or

(ii) a rural artisan ; or

(iii) a small farmer,

who has borrowed or incurred any debt before the commencement of this Act ;

(g) ' family ', in relation to a person, means the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children.

Explanation.- For the purpose of this clause " minor " means a person who has not completed his or her age eighteen years ;

(h) " interest " means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any ;

(i) ' landless agricultural labourer' means a person who does not hold, whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose principal means of livelihood is manual labour on agricultural land and whose annual house-hold income does not exceed two thousand and four hundred rupees ;

(j) ' person ' means an individual or a family ;

(k) ' rural artisan ' means a person who does not hold whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose annual household income does not exceed two thousand and four hundred rupees and-

(i) whose principal means of livelihood is production on repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto or

(ii) who normally earns his livelihood by practising any craft either by his own labour or by the labour of the members of his family in any rural area.

Explanation.- For the purpose of sub-clause (ii) of this clause , " rural area " means any area not being the area comprised in a municipality or township declared under the Pondicherry Municipalities Act, 1973 (Pondicherry Act 9 of 1972) ;

(l) ' small farmer ' means a person whose principal means of livelihood is income derived from agricultural land and who holds, whether as owner, tenant, or mortgagee with possession, or partly in one capacity and partly in another not more than one unit of land.

Explanation II. - Where any person holds as aforesaid more than one category of land referred to in clause (o), then, for the purpose of calculating the extent of land held by him, two hectares of unirrigated land shall be deemed to be equal to-

(i) half hectare of land having facilities for growing one irrigated crop ;

(ii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry ;

(iii) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year.

Explanation III.- In this clause and in clause (o),-

(a) " irrigated " means irrigated from any source, whether Government or private ;

(b) " plantation crop " means cardomom, cinchona, coffee, rubber or tea ;

(m) ' Tahsildar ' includes a Deputy Tahsildar in independent charge of a taluk or sub-taluk and any other officer of the Revenue Department not below the rank of a Deputy Tahsildar empowered by the Administrator to exercise the powers and perform the functions of a Tahsildar under this Act ;

(n) ' transferee of the creditor ' means any person [including an institution referred to in clause (g) of section 13] to whom-

(i) the creditor has pledged the movable property pledged to him by the debtor and includes any subsequent transferee to whom such transferee has pledged such movable property and also includes any person in possession of the property pledged ; or

(ii) the creditor has transferred or otherwise assigned his interest in the property mortgaged by the debtor and includes any subsequent transferee to whom such transferee has transferred or otherwise assigned his interest in the property mortgaged and also includes any person in possession of the property mortgaged ;

(o) ' unit of land ' means -

(i) two hectares of unirrigated land ; or

(ii) half hectare of land having facilities for growing one irrigated crop ; or

(iii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry ; or

(iv) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year.

4. Relief from indebtedness

Notwithstanding anything contained in the Madras Pawnbrokers Act, 1943 (Madras, Act 23 of 1943), as extended to the Union territory of Pondicherry by the Pondicherry Pawnbrokers Act, 1966 (Pondicherry Act 11 of 1966) the Pondicherry Money Lenders' Act, 1970 (Pondicherry Act 26 of 1970), the Union territories Relief of Agricultural Indebtedness Regulation, 1976 (1 of 1976), or in any other law for the time being in force or in any contract or instrument having force by virtue of any such law and save as otherwise expressly provided in this Act, with effect on and from the commencement of this Act,-

(a) every debt advanced or incurred before the commencement of this Act (including interest, if any), and payable by the debtor to the creditor shall be deemed to be wholly discharged ;

(b) no Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of such debt (including interest, if any) :

Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, nothing in this section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person ;

(c) all suits and other proceedings (including appeals, revisions, attachments or execution proceedings) pending at the commencement of this Act against any debtor for the recovery of any such debt (including interest, if any), shall abate :

Provided that nothing in this clause shall apply to the sale, in respect of any such debt, of-

(i) any movable property held and concluded before the commencement of this Act ;

(ii) any immovable property confirmed before such commencement ;

(d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, if any), shall be released ;

(e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith ;

(f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.

Explanation.- Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt repaid or interest paid already by him or recovered from him before the commencement of this Act.

5. Creditors to file statement, etc.

(1) Every creditor referred to in clause (e) of section 4 shall, within such period as may be prescribed, furnish to the Tahsildar having jurisdiction over the area where such creditor has his ordinary place of business, a statement in such form as may be prescribed containing the names of all the persons who have pledged movable property with him, the nature and description of such property, the amount advanced and due as on the commencement of this Act, the rate of interest and such other particulars as may be prescribed.

(2) A debtor referred to in clause (e) of section 4 may also make an application to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business for an order for the return of the movable property pledged by the debtor.

(3) On receipt of a statement under sub-section (1) or an application under sub-section (2), and after such inquiry conducted in the manner prescribed, the Tahsildar shall, by order, determine-

(i) where a statement has been furnished by the creditor under sub-section (1), which of the persons who have pledged movable property with him are entitled to relief under section 4 ; and

(ii) where an application has been made by the debtor under sub-section (2), whether the debtor is entitled to relief under section 4,

and direct the creditor to produce on or before the date specified in the order the movable property pledged by such persons or debtor.

(4) Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in the order referred to in sub-section (3).

(5) If the creditors fails to produce the movable property as directed in the order under sub-section (3)--

(a) the Tahsildar may enter any premises of the creditor or of the transferee of the creditor [other than an institution referred to in clause (g) of section 13] and search and seize the said property ; and

(b) where the movable property is in the possession of any of the institutions referred to in clause (g) of section 13, the Tahsildar shall,-

(i) by an order, direct the said institution to deposit on or before the date specified in the order, the movable property with the Tahsildar together with a statement specifying the amount due to the said institution in respect of the said property and simultaneously issue a certificate to the said institution to the effect that the amount due to the said institution in respect of the said property shall be recovered from the creditor as if it were an arrear of land revenue and paid to the said institution ; and

(ii) on the said institution depositing the said property with the Tahsildar, acknowledge in writing the receipt of the movable property and proceed to recover from the creditor such amount as is due to the said institution in respect of the said property as if it were an arrear of land revenue, and on such recovery pay the same to the said institution.

(6) After such production or recovery or deposit of the movable property pledged, the Tahsildar shall deliver the said property to the debtor.

(7) Pending determination of the question under sub-section (3), no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor.

(8) Notwithstanding anything contained in sub-section (5) or in the Madras Pawnbrokers Act, 1943 (Madras Act 23 of 1943), as extended to the Union territory of Pondicherry by the Pondicherry Pawnbrokers Act, 1966 (Pondicherry Act 11 of 1966), the Tahsildar-

(a) may enter any premises of the creditor of the transferee of the creditor [other than an institution referred to in clause (g) of section 13] and search and seize the movable properties pledged by debtors and arrange for their safe custody ;

(b) shall proceed to determine which of the movable properties so seized are to be released to the debtors and pass orders accordingly.

(9) The provisions of sections 100 and 165 of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizer shall, so far as may be, apply to searches and seizures under sub-sections (5) and (8).

6. Debtors to apply in certain cases.

(1) A debtor referred to in clause (f) of section 4 may make an application to the Tahsildar having jurisdiction over the area within which such debtor ordinarily resides, for an order releasing the mortgaged property and for the grant of a certificate of redemption.

(2) (a) On receipt of such application and after such enquiry conducted in the manner prescribed, the Tahsildar shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any court or other authority ;

(b) the Tahsildar shall also direct the creditor or the transferee of the creditor-

(i) to deliver possession of the mortgaged property to the debtor on or before the date specified in the order, if the debtor is not already in possession of the mortgaged property ; and

(ii) to produce on or before the date specified in the order, the mortgage deed or other document and the Tahsildar shall make an endorsement of redemption on the mortgage deed or other document.

(3) Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in, or exercise his right of foreclosure in respect of the property mortgaged by the debtor.

(4) Where the mortgaged property has been transferred or any right therein has been assigned to any of the institutions referred to in clause (g) of section 13 by the creditor, the Tahsildar shall recover from the creditor such amount as is due to such institution in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the said institution.

7. Finality of orders passed under this Act.-

Every order of the Tahsildar under section 5 or section 6 shall, subject to appeal under section 8, be final and shall not be called in question in any court.

8. Appeal.-

(1) Any person aggrieved by an order made by the Tahsildar under this Act may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Administrator in this behalf.

(2) In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any court.

9. Legal practitioner not to appear.-

No party to any proceeding under this Act shall be entitled to be represented by a legal practitioner.

Explanation.- In this section, " legal practitioner " shall have the meaning assigned to it in section 2 of the Advocates Act, 1961 (25 of 1961).

10. Penalty.-

(1) Any person failing to furnish the statement under section 5 or to comply with the order made or direction given under section 5 or section 6 or otherwise contravening the provisions of either of the said sections shall be liable to imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

(2) Every offence punishable under sub-section (1) shall be cognisable.

(3) Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974) shall as far as may be, apply to such trial.

11. Offences by companies.-

(1) Where an offence under this Act has been committed by a company every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer of the

company, shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) " company " means any body corporate and includes a firm or other association of individuals ; and

(b) " director ", in relation to a firm, means a partner in the firm.

12. Burden of proof.-

In any suit or proceeding, the burden of proving that the debtor is not entitled to the protection of this Act, shall, notwithstanding anything contained in any law for the time being in force, lie on the creditor.

13. Certain debts and liabilities not to be affected.-

Nothing in this Act shall apply to the following categories of debts and liabilities of landless agricultural labourers, rural artisans and small farmers, namely :-

(a) any rent due in respect of any property including agricultural land let out to a debtor ;

(b) any amount recoverable as arrears of land revenue ;

(c) any liability arising out of breach of trust or any tortious liability ;

(d) any liability in respect of wages or remuneration due as salary or otherwise for services rendered ;

(e) any liability in respect of maintenance whether under a decree of a court or otherwise ;

(f) a debt due to-

(i) the Central Government or any State Government ;

(ii) any local authority ;

(g) save as otherwise provided in this Act, any liability in respect of any sum due to-

(i) (A) any banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies;

(B) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(C) any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) ;

(D) any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970) ;

(E) the Agricultural Refinance and Development Corporation, established under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963) ;

(F) any other financial institution notified in this behalf by the Administrator in the Pondicherry Gazette ;

(ii) any Government company within the meaning of the Companies Act, 1956 (1 of 1956);

(iii) any corporation owned or controlled by the Central Government or any State Government

;

(iv) the Life Insurance Corporation of India ;

(v) any Co-operative Society Including a land development bank, registered or deemed to be registered under the Pondicherry Co-operative Societies Act, 1972 (Pondicherry Act 7 of 1973) ; and

(h) any debt which represents the price of property whether movable or immovable purchased by a debtor or any amount due under a hire purchase agreement.

14. Power to make rules.-

(1) The Administrator may make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall be published in the Pondicherry Gazette, and unless they are expressed to come into force on a particular day shall come into force on the date on which they are so published.

(3) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the Table of the Legislative Assembly of Pondicherry and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or directs that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

15. *Effect of other laws.*- Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

**THE PONDICHERRY NON -
AGRICULTURAL KUDIYIRUPPUDARS
(STAY OF EVICTION PROCEEDINGS)
ACT, 1980**

(ACT NO. 2 OF 1981)

THE PONDICHERRY NON - AGRICULTURAL KUDIYIRUPPUDARS (STAY OF EVICTION PROCEEDINGS) ACT, 1980

(ACT NO. 2 OF 1981)

(20-02-1981)

AN ACT

To provide for the stay of eviction of certain classes of non-agricultural kudiyruppudars in certain areas of the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Thirty - first Year of the Republic of India follows:-

Short title extent, commencement and duration

1. (1) This Act may be called the Pondicherry Non - agricultural Kudiyruppudars (stay of Eviction Proceedings) Act. 1980.

(2) It extends to the Pondicherry and Karaikal regions of the Union territory of Pondicherry.

(3) It shall come into force at once and shall remain in force upto and inclusive of the 31st day of March, ¹[1994] ¹ except as respects things done or omitted to be done before its expiry under the operation of this sub -section, and section 6 of the General Clauses Act, 1897 shall apply upon such expiry as if it had then been repealed by a central Act.

Definitions

2. In this Act, unless the context otherwise requires,-

(a) "homestead" means any dwelling house erected by a person who has been given permission to have the use and occupation of any land for the purpose of such erection, and includes any such dwelling house reconstructed by a non - agricultural kudiyruppudar;

(b) "hut" means any dwelling house erected by a person other than the person who has been given permission to occupy it—

(i) at a cost, not exceeding two thousand rupees; or

(ii) Which yields or could yield a monthly rent not exceeding twenty-five rupees;

and includes any such dwelling house reconstructed by non-agricultural kudiyruppudars;

Explanation.— For the purpose of clauses (a) and (b) any person who is in occupation of a "homestead" or "hut" on the date of introduction of the Pondicherry Non-agricultural Kudiyruppudars (Stay of Eviction Proceedings) Bill, 1980 in the Legislative Assembly shall be deemed to be a person who has got the permission specified under the said clauses;

(c) "non-agricultural kudiyruppudar" means a non-agriculturist who has neither a homestead, nor any land exceeding in extent 120 square metres in any municipality or 200 square metres in any commune panchayat either as owner or as tenant in possession on which he could erect a dwelling house, but has been permitted by a person in lawful possession of any land—

(i) to have the use and occupation of a portion of such land for the purpose of erecting a homestead ; or

1. Substituted by Notification No.41/Leg/93-LD dt 05-11-1993 Act. No of 1993.

(ii) to occupy a hut belonging to such person and situate in the said land,
with or without an obligation to pay rent;

(d) "non-agriculturist" means a person who is not an agriculturist or agricultural labourer and whose annual aggregate income does not exceed Rs. 2,400

Explanation.- For purpose of this clause,—

(1) "agricultural labourer" means a person who earns his livelihood principally by manual labour in any of the following operations, namely:-

(i) farming, including cultivation and tillage of soil;or

(ii) dairy farming;or

(iii) production, cultivation, growing and harvesting of any horticultural commodity;or

(iv) raising of livestock, bees or poultry;or

(v) any practice performed on a farm as incidental to, or in conjunction with, farm operations (including any forestry or timbering operation) and preparation for market,or to carriage for transportation, of farm products in the capacity of labourer on hire and exchange and who is paid in cash or in kind or partly in cash and partly in kind for such engagement.

(2) "agriculturist" means a person who cultivates land classified as agricultural in revenue by the contribution of his own manual labour or of the manual labour of any member of his family.

Act not to apply in certain cases

3. Nothing in this Act shall apply to lands belonging to or vested in the Government of the Union territory Pondicherry, the Government of any State in India, the Government of India, a local authority or a corporation owned or controlled by any of the said Governments or authority.

Stay of eviction proceedings

4. Notwithstanding anything contained in any other law for the time being in force, or in any contract, custom or usage or in any judgment, decree or order of a court or other authority, on and from the commencement of this Act, no non - agricultural kudiyrupputar shall be evicted from his homestead or hut, and no suit, or proceeding for the execution of any decree or order, for the eviction of a non - agricultural kudiyrupputar from his homestead or hut shall lie in any court or authority, and all such suits, or proceedings for the execution of any decree or order, for such eviction pending in a court or authority on such commencement shall be stayed.

Explanation.— For the purposes of this section and section 5, "suit" includes appeal.

Exclusion of time for limitation

5. Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for the institution of a suit for proceeding for the execution of any decree or order for the eviction of a non-agricultural kudiyrupputar from his homestead or hut, the time during which such suit or proceeding is barred under section 4 shall be excluded.

**THE CABLE TELEVISION NETWORKS
(REGULATION) ACT, 1955**

No.7 OF 1995

**THE CABLE TELEVISION NETWORKS (REGULATION)
ACT, 1955¹**

No.7 OF 1995

(25th March, 1995)

An Act to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

**CHAPTER 1
PRELIMINARY**

Short Title extent and commencement

1. (1) This Act may be called the Cable Television Networks (Regulation) Act, 1995.
- (2) It extends to the whole of India
- (3) It shall be deemed to have come into force on the 29th day of September, 1994.

Definitions

2. In this Act, unless the context otherwise requires-

² (a) "authorised officer" means, within his local limits of jurisdiction:-

- (i) a District Magistrate, or
- (ii) a Sub-divisional Magistrate, or
- (iii) a Commissioner of Police,

and includes any other officer notified in the Official Gazette, by the Central Government or the State Government, to be an authorised officer for such local limits of jurisdiction as may be determined by that Government;

³ (aa) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b) "cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(c) "cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide

1. as amended by Cable Television Networks (Regulation) Act, 2000 (36 of 2000)

2. inserted vide Cable Television Networks (Regulation) Amendment Act, 2000 (36 of 2000)

3. Renumbered vide Cable Television Network (Regulation) Amendment Act, 2000 (36 of 2000)

cable service for recaption by multiple subscribers

(d) "company" means a company as defined in section 3 of the companies Act, 1956; (Act No. 1 of 1956);

(e) "person" means -

(i) an individual who is citizen of India;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India;

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

(g) "programme" means any television broadcast and includes -

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(h) "registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Act;

(i) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

CHAPTER II REGULATION OF CABLE TELEVISION NETWORK

Cable television network not to be operated except after registration

3. No person shall operate a cable television network unless he is registered as a cable operator under this Act:

Provided that a person operating a cable television network, immediately before the commencement of this Act, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

Registration as cable operator

4. (1) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfil the conditions specified in clause (e) of section 2.

Programme code

5. No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code;

¹ [proviso omitted]

Advertisement Code

6. No. person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the perscribed advertisement code:

¹ [proviso omitted]

Maintenance of register

7. Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the the actual transmission or re-transmission of the said programmes.

Compulsory transmission of Doordarshan channels

² 8. (1) Every cable operator shall, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, re-transmit at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band, in satellite mode on frequencies other than those carrying terrstrial frequencies.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

(3) The Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 may, by notification in the Official Gazette, specify the number and name of every Doordarshan channel to be re-transmitted by cable operators in their cable service and the manner of reception and re-transmission of such hannels.

1. Omitted vide Cable Television Networks (Regulation) Amendment Act, 2000 (36 of 2000)

2. Substituted vide Cable Television Networks (Regulation) Amendment Act, 2000 (36 of 2000)

9. No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986, (Act No. 63 of 1986) use any equipment in his cable television network unless such equipment in his cable television network unless such equipment conforms to the said Indian Standard.

10. Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

SEIZURE AND CONFISCATION OF CERTAIN EQUIPMENT

Power to seize equipment used for operating the cable television network

11. ¹(1) If any authorised officer has reason to believe that the provisions of sections 3,5,6 or 8 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

Confiscation

12. The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

Seizure of confiscation of equipment not to interfere with other punishment

13. No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected there by is liable under the provisions of this Act.

Giving of opportunity to the cable operator of seized equipment

14. (1) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter :

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

1. substituted vide Cable Television Networks (Regulation) Amendment Act, 2000 (36 of 2000)

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 shall, so far as may be, apply to every proceeding referred to in sub-section (1).

Appeal

15. (1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such Court.

(2) The appellate court may after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

CHAPTER IV

OFFENCES AND PENALITIES

16. Whoever contravenes any of the provisions of this Act shall be punishable, -

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

Offences by companies

17 (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punishable accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

Cognizance offences

18. No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made ¹ ["by any authorised officer"].

CHAPTER V

MISSCELLANEOUS

Power to prohibit transmission of certain programmes in public interest

19. Where ¹ ["any authorised officer"] thinks it necessary or expedient so to do in public interest, he may, by order, prohibit any cable operator from transmitting or retransmitting ¹ ["any programme or channel if, it is not in conformity with the prescribed programme code referred to in section 5 and advertisement code referred to in section 6 or if it is "] likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

Power to prohibit operation of cable television network in public interest

20 ² (1) Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

³(2) Where the Central Government thinks it necessary or expedient so to do in the interest of the -

- i) sovereignty or integrity of India; or
- ii) security of India; or
- iii) friendly relations of India with any foreign State; or
- iv) public order, decency or morality,

it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme.

³ (3) `Where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed advertisement code referred to in section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme.

1. Substituted vide Cable Television Networks (Regulation) Amendment Act, 2000. (36 of 2000)

2. re-numbered vide Cable Television Networks (Regulation) Amendment Act, 2000.

3. inserted vide Cable Television Networks (Regulation) Amendment Act, 2000. (36 of 2000)

Application of other laws not barred

21. The provisions of this Act shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 (23 of 1940), the Pharmacy Act, 1948 (8 of 1948), the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950), the Drugs (Control) Act, 1950 (26 of 1950), the Cinematograph Act, 1952 (37 of 1952), the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (21 of 1954), the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Prize Competitions Act, 1955 (42 of 1955), the Copyright Act, 1957 (14 of 1957), the Trade and Merchandise Marks Act, 1958 (43 of 1958), the Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986), and the Consumer Protection Act, 1986 (68 of 1986).

Power to make rules

22. (1) The Central Government may, by notification in the official Gazette, make rules to carry out the provisions 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 form of application and the fee payable under sub-section (2) of section 4;
- (b) the programme code under section 5;
- (c) the advertisement code under section 6;
- (d) the form of register to be maintained by a cable operator under section 7;
- (e) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament. while it is in sessions, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Order 3 of 1995

23. (1) The Cable Television Networks (Regulation) Ordinance, 1995 is hereby replaced

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provision of this Act.

**THE PONDICHERRY OPEN PLACES
(PREVENTION OF DISFIGUREMENT)
ACT,2000**

(ACT No. 6 of 2000)

**THE PONDICHERRY OPEN PLACES
(PREVENTION OF DISFIGUREMENT) ACT,2000
(ACT No. 6 of 2000)**

(20-12-2000)

AN ACT

to prevent disfigurement by objectionable or unauthorised advertisements of places open to public view in the Union territory of Pondicherry

Whereas it is expedient to prevent disfigurement by objectionable or unauthorised advertisements of place open to public view in the Union territory of Pondicherry.

Be it enacted by the Legislative Assembly of Pondicherry in the Fifty - first Year of the Republic of India as follows :-

Short title, extent and commencement

1. (1) This Act may be called the Pondicherry Open Places (Prevention of Disfigurement) Act, 2000.
- (2) It extends to the whole of the Union territory of Pondicherry.
- (3) It shall come into force at once.

Definition

2. In this Act, unless the context otherwise requires,-
 - (a) "advertisement" includes an effigy or any bill, notice, document, paper or other thing containing any words, signs or visible representations:
 - (b) "defacement" includes impairing or interfering with the appearance of beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly ;
 - (c) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution;
 - (d) "objectionable advertisement which is likely to -
 - (i) incite any person to commit murder, sabotage or any offence involving violence; or
 - (ii) seduce any member of any of the armed forces of the Union or of the Police force from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

(iii) incite any section of the citizens of India to acts of violence against any other section of the citizens of India ; or which -

(iv) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class;or

(v) is grossly indecent, or is scurrilous or obscene or intended for blackmail.

Explanation.- An advertisement shall not be deemed to be objectionable merely because words or signs or visible representations are used -

(1) expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means;

(2) Criticising any social or religious practices without malicious intention and with an honest view to promote social or religious reform or social justice;

(e) "Place open to public view" includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place;

(f) " Public Place" means any place (Including a road, street or way, whether a throughfare or not and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass.

No person to affix to or inscribe or exhibit on any place open to public view any objectionable advertisement, etc

3. On and from the commencement of this Act, no person shall affix to, or inscribe or exhibit on, any place open to public view,-

(i) any objectionable advertisement; or

(ii) any advertisement without the written consent of the owner or occupier or person in the management of the property in which such place is situated.

Government to specify by notification any area where no person shall deface any place open to public view

4. Notwithstanding anything contained in this Act, or any other law for the time being in force, the Government may, if satisfied, that it is necessary or expedient so to do for purpose of preventing defacement, by notification in the official gazette, direct that from such date and in such area as may be specified in the notification, no person shall deface any place open to public view by writing or marking with ink, chalk paint or any other material except for the purpose of indicating the name and for such other purpose, as may be specified in the said notification.

Penalty for disfigurement by objectionable advertisements

5. Whoever affixes to, or inscribes or exhibits on, any place open to public view any objectionable advertisement shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for unauthorised disfigurement by advertisements

6. Whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement without the written content of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

Penalty for contravention of notification issued under section 4

7. Whoever defaces any place open to public view in contravention of the notification issued under section 4 shall be punishable for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Punishment of abettors

8. Whoever in any manner whatsoever causes, procures, counsels, aids, abets or is accessory to, the commission of any offence under section 3, section 4 or section 5, shall be punished with the punishment provided for the offence.

Burden of proof in certain cases

9. Where a person is prosecuted for committing an offence under section 6, the burden of proving that he has the written consent referred to in that section shall be on him.

Offence by companies

10. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub - section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub - section (1), Where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the

consent or connivance of, or is attributable to any gross negligence on the part of any director, manager secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section -

(a) "Company" means any body corporate and includes a firm or other association of individuals;and

(b) "director" in relation to a firm, means a partner in the firm.

Offences under the Act to be cognizable

11. Notwithstanding anything contained in the code of criminal Procedure, 1973, any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that code.

Indemnity

12. No. suit, prosecution or other legal proceeding shall lie against the Government, any local authority or person for anything which is in good faith done or intended to be done under this Act.

Power of Government to erase writing, etc.,

13. (1) The Government or any officer authorised in this behalf may, by notice require the owner or the person having control over any place open to public view, to erase any writing, free any defacement or remove any mark from such place within such time as may be specified in such notice.

(2) If such erasing, freeing or, as the case may be removing is not carried out within the time specified in the notice given under sub - section (1), the Government or such authorised officer may cause such erasing, freeing or removing to be done and the expenses incurred shall be paid by the owner or such other person and in default of such payment, such expenses shall be recovered from such owner or such other person as if they were arrears of land revenue.

Other laws not affected

14. The provisions of this Act, are in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make rules

15. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) All rules made and all notifications issued under this Act, shall, as soon as possible after they are made or issued, be placed on the Table of the Legislative Assembly of the Union Territory and shall be subject to such modification by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modification or annulment shall not affect the validity of anything already done and acted upon under such rules and notification.

GOVERNMENT OF PONDICHERRY

REVENUE DEPARTMENT

No : 12834/C1/Rev/85-01

Pondicherry 15th April 2001

NOTIFICATION

In exercise of the powers conferred by section 13 of the Pondicherry Open Places (Prevention of Disfigurement) Act, 2000 (Act No : 6 of 2000), the Lieutenant Governor, Pondicherry hereby authorises, the Dy. Collector/Sub-Collector (Rev), Pondicherry/Karaikal/Mahe/Yanam and the commissioners of local bodies in all the said four regions to be Authorised Officers within their respective Jurisdiction for the purposes of section 13 of the said Act.

(By Order of the Lieutenant Governor)

Sd/-
(UDDIPTARAY)
Joint Secretary (Rev)

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