

The Assam Fixation of Ceiling on Land Holdings Act, 1956

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

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

Provided that where the land is revenue free or assessed to land revenue at a concessional rate or where it is not assessed to land revenue under the provisions of the Assam Land and Revenue Regulation, 1886 (Regulation 1 of 1886) or of the Assam Land Revenue Re-assessment Act, 1936 (Assam Act VIII of 1936), the compensation shall be determined on the basis of annual land-revenue assessable under the provision of the afore-mentioned Acts on similar, full revenue paying land situated nearest to it.

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

(c) For any improvement made on the land, an additional amount not exceeding twice the amount of compensation payable under clause (a) above for the land benefited by such improvement shall be payable to the owner or the tenant [or the sub tenant]¹² as the case may be, at whose expense the improvement was made. In determining this amount, the following factors shall be taken into consideration, namely–

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

**The
Manner of
payment of
compensation**

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

Provided that where the full amount of compensation is not paid within Six months of the date of acquisition, interest at the rate 2½ per cent per annum shall be payable on the unpaid balance of the compensation.

14. Inserted by Assam Act No. XVII of 1957

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

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

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

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

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

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

CHAPETR -III

Disposal of excess land

Disposal of 15. :- Subject to the provisions of this Act and of this chapter in particular the excess and [transferred to and vested in the State Government under sub-section 4 of Section 7]¹ of this Act shall be at the disposal of the State Government.

1. Substituted by the Assam Act No. XVIII of 1976

2. Substituted by the Assam Act No. VIII of 1971 for the word "have the opinion of taking".

The manner of disposal of excess land 16. :- (1) If there is any cultivating tenant in occupation of the land acquired from an owner then he shall [be given]² settlement of such land within a prescribed period on the following conditions, namely :

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

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

Provided that [***]³ any amount which he is entitled to receive as compensation under the provisions of this Act [shall be adjusted]⁴ against and equal amount which [he]² is liable to pay under clause (b) above.

2) On payment of the full amount under sub-section (1) above, the land shall be settled with him with the status of a land-holder as defined in the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886.[***]⁵

3) Where the excess land is acquired from a tenant as such and not from the owner thereof, the State Government shall be entitled to settle it, on such terms as it may fix, with the fix, with the sub-tenant, if any, who is in occupation of such land, subject to the limit under Section 4, or if there be no sub-tenant so entitled, with any person coming within the purview of [***]⁶ sub-section (1) of Section 17 below, with the same status as was held by the tenant from which the land has been acquired.

Manner of disposal of land which is not settled under Section 17. :- [(1) The State Government or any officer empowered by it in this behalf shall be entitled to settle any land which has not been disposed of under Section 16 in the same manner as any other land which is at the disposal of the Government under Section 12 of the Assam Land and Revenue Regulation, 1886]⁷

3. Deleted by the Assam Act No. VIII of 1971.

4. Deleted & added by *ibid*.

5. Words occurring after words "Regulation 1886".

6. Deleted by the Assam Act No. VIII of 1971.

7. Substituted by the Assam Act No. VIII of 1971.

2) The State Government or the officer empowered in this behalf may, for the purpose of settling any land under sub-section (1) above, eject, if necessary, any person in unauthorised possession.

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

a) Landless cultivator who has been rendered homeless due to flood, erosion or earthquake.

b) Landless cultivator.

c) Agricultural Farming Corporation as defined in the Assam Agricultural farming Corporation Act, 1973 (Assam Act VIII of 1973)

Explanation . For the purpose of this Section the expression “Landless cultivator” shall mean a person who does not hold any land whether a owner or as tenant or as both exceeding 3 bighas and whose only means of livelihood is cultivation.]¹

18. A tenant who is in occupation of any land [transferred to and vested in the State Government under sub-section (4) of Section 7]² but who does not take settlement of such land in the manner described in Section 16 above, shall acquire no right, title and interest in such land and shall be liable to ejection, without prejudice to any other action that may be taken under the relevant provisions of the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886), or any other law for the time being in force.

CHAPTER - IV

Excess land under annual lease

Taking over of excess land which is under annual lease 19. :- (1) If from the final statement prepared under Section 7, it appears that any person [***]³ holds any land under annual lease granted by the State Government, which, with or without the lands already held by him, [***]³ exceeds in the aggregate the limit fixed under Section 4 of this Act, then notwithstanding anything to the contrary in any laws or agreement, the Collector shall, after issue of⁴[one months notice] takeover

1. Inserted by Assam Act No. IX of 1975

2. Substituted by Assam Act No. XVIII of 1976 for the word “acquired under section 8”

3. Deleted by Assam Act XXVII of 1960.

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the excess land under annual lease and may eject any person who may be in possession of such land, and may thereupon dispose of it in the manner of Section 17.

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

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

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

CHAPTER -V

Ceiling on future acquisition

**Ceiling on
f u t u r e
a c q u i s i t i o n
b y t r a n s f e r,
e t c .**

20. :- (1) Notwithstanding anything to the contrary in any law, usage, contract or agreement, from and after the commencement of this Act, no person [***]⁵ as owner [or]⁶ tenant [or mortgagee in possession]⁷ shall acquire, or possess by transfer, exchange, lease, agreement or settlement any land which, or without the lands held by him or any member of his family, shall in the aggregate exceed the limit fixed under Section 4 of this Act.

Explanation :- Transfer does not include (i) inheritance and;

(ii) bequest or gift to an heir.

2) From and after the commencement of this Act, no document evidencing any transaction for acquisitions or possession of any land by way of transfer, exchange, lease, agreement or settlement shall be registered, unless a declaration in writing and duly verified is made filed

4. Substituted by Assam Act No. XVIII of 1976

5. Deleted by Assam Act XXVII of 1960

6. Substituted by Assam Act IX of 1975 by a comma.

7. Inserted by Assam Act XVIII of 1976.

by the transferee before the competent registering authority under the Indian Registration Act, 1908 (Act XVI of 1908), about the total area of Lands held or possessed by him or any member of his family as owner or tenant.

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

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

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

Provided that nothing in Section shall effect the liability of any, of the transferee for payment of consideration of such transaction.

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

Ceiling on future acquisition by inheritance 22. :- (1) If, after the commencement of this Act, any person [***]¹ as owner [.]² tenant [or mortgage in possession]³ acquires by inheritance or by bequest or gift from a person whom he is an heir any land which, with or without the lands already held by him [***]⁴ exceeds in this aggregate the limit fixed under Section 4 of this Act, then he shall within the prescribed period submit to the Collector a return in the manner of Section 5 giving the particulars of all lands and selecting the

1. Deleted by Assam Act XVII of 1960

2. Substituted by Assam Act IX of 1975

3. Inserted by Assam Act XVIII of 1976

4. Deleted by Assam Act XXVII of 1960

land he desires to retain.

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

[(3) The Collector shall then prepare a draft statement and make the same final in the manner laid down in Section 7 and thereupon all the provisions of this Act shall apply *mutatis mutandis*.¹]

CHAPTER -VI

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

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

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

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

b) if the aggregate area of lands in actual occupation of a tenant exceeds 10 bighas, then the tenant shall not be ejected from a minimum area of 10 bighas as selected by him (tenant), until he has been provided with land of equivalent value in the locality, but the land-lord shall be entitled to resume for personal cultivation any area in excess of these 10 bighas. In no case however, the aggregate area of lands so resumed, from all his tenants taken together along with any other land already held under personal cultivation by the landlord [***]³ on the date of resumption, shall exceed an overall limit of [50]⁴ bighas;

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

1. Sub-section (3) substituted by Assam Act XVIII of 1976.

2. Clause (a) and (b) of section 23 substituted by Assam Act No XVII of 1957.

3. Omitted by Assam Act No. XXVII of 1960.

4. The figure "100" substituted by figure "50" by the Assam Act No XVII of 1957.

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

[Provided further that if the landlord is a minor, or a widow in a person subject to any physical or mental disability, or a member of the Military, Naval or Air Forces of the Union, then it shall not be obligatory on him to leave a minimum area with the tenant under the provisions of clause (a) or (b) above]¹

No ejection after the expiry of 5 years

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

Provided that if the land-lord is (a) a minor or (b) a widow, or (c) a person subject to any physical or mental disability, or (d) a member of the Military, Naval or Air Forces of the Union, then the said period of 5 years shall commence (a) on attainment of majority by the minor under Indian Majority Act (Act IX of 1985) or (b) on remarriage by the widow or (c) on cessation of the disability of the land-lord or (d) on discharge or retirement of the land-lord from the services of the Military, Naval or Air Forces of the Union.

Restoration of possession to tenants in certain circumstances

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

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

1. The Second Proviso inserted by Assam Act No. XVII of 1957.

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

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

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

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

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

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

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

- a) that he has done any act which is destructive or permanently