

**THE UNITED PROVINCES ESTATES ACT, 1920**

**(U.P. Act No. VII of 1920)**

# THE UNITED PROVINCES ESTATES ACT, 1920<sup>1</sup>

## (U.P. Act No. VII of 1920)

*Amended by*

U.P. Act no. IV of 1924

U.P. Act no. I of 1928

**Adapted and modified by the Government of India,  
Adaptation of Indian Laws Order, 1937.**

**Adapted and modified by the Adaptation of Laws Order,  
1950.**

(Received the assent of the Lieutenant Governor on the 1<sup>st</sup> November, 1920 and of the Governor General on the 3<sup>rd</sup> December, 1920, and was published under section 81 of the Government of India Act on the 25<sup>th</sup> December, 1920).

WHEREAS it is expedient to define and regulate the course of succession to impartible estates <sup>2</sup>[\*\*\*]and to facilitate the extension of the same course of succession to other estates <sup>3</sup>[in the Provinces of Agra and Oudh which are not subject to the provisions of the Oudh Estates Act, 1869, as amended by the Oudh Estates (Amendment) Act of 1910 or of the Oudh Settled Estates Act, 1917] and to make better provision for the preservation of such estates, and whereas the previous sanction of the Governor General has been obtained under sub-sections (2) and (3) of section 79 of the Government of India Act, 1915; It is hereby enacted as follows :

### Short title and extent

**1.** <sup>4</sup>(1) This Act may be called the United Provinces Estates Act, 1920.

(2) <sup>5</sup>[It shall extend<sup>6</sup> to the whole of Uttar Pradesh.]

1. For S.O.R., see Gaz., 1920, Pt. VII, p. 692; for discussion, see L.C. Pro. Public shed in *ibid*, pp. 779, 1122, 1169 and 1206.

2. The words (in Agra) *omit.* by s. 2 of U.P. Act IV of 1924.

3. *Add by ibid.*

4. *Subs.* for the following by s. 3 of U.P. Act IV of 1924 :-

“(1) This Act may be called the Agra Estates Act, 1920.

(2) It extends to the whole of Agra.”

5. *Subs.* by the A.O. 1950 for sub-sec. (2) of s. 1.

6. This Act has been extended to the areas mentioned in column 1 of this table under the Act or Order mentioned in column 2 and enforced in such areas under notification, if any, mentioned in column 3 with effect from the date mentioned in column 4 against each such

Areas	Act or order under which extended	Notification, if any, under which enforced	Date from which enforced
1	2	3	4
1. Rampur District	U.P. Act XII of 1950, s. 3		Dec. 30, 1949
2. Banaras District	Banaras (Application of Laws) order, 1949.	No. 3262 (1)/XVII d. Nov. 30, 1949	Nov. 30, 1949.
3. Tehri-Garhwal district	Tehri Garhwal Application of Laws Order, 1949.	No. 3262 (2) XVII, d. Nov. 30, 1919	Ditto.

Provided that it shall not extend to estates in Oudh which are subject to the provisions of the Oudh Estates Act, 1869 as amended by the Oudh Estates (Amendment) Act of 1910 or of the Oudh Estates Act, 1917].

**2.** In this Act, unless there is something repugnant in the subject or context,— **Interpretation clause**

(1) “attest” with its grammatical variations, when used with reference to any non-testamentary instrument, means to sign such instrument as a witness in the presence of executant after having seen the executant sign the same after having received from the executant a personal acknowledgement of his signature to the same.

**Explanation I** — When attestation by more than one witness is required it is not necessary that more than one of such witnesses shall be present at the same time.

**Explanation II** — No particular form of attestation is required.

(2) “competent to contract” means competent to contract with the meaning of section 11 of the Indian Contract Act, 1872.

(3) “estate-holder” means a person to whom, and “estate” immovable property to which, the provisions of Part I are applicable.

(4) “minor” means a person who has not attained his majority under the provisions of Indian Majority Act, 1875. ]

(5) “separate right” used with reference to immovable property means the right possessed by an owner who is exclusively entitled to the whole of such property or to a specific share or portion thereof.

**Explanation** — The interest of a member of a Hindu joint family in coparcenary property is not a separate right.

(6) “settled estates” means immovable property for the time being subject to the provisions of Part II by virtue of a declaration made under section 27.

(7) words expressing relationship denote only legitimate relationship, but apply to children in the womb who are born alive.

#### **PART-I**

**3.** Notwithstanding anything in any other enactment contained, it shall be lawful for any person competent to contract who is the owner — **Application for a declaration under Part I.**

(a) of immovable property which by family custom descends to a single heir according to the rule of primogeniture, or

(b) of a separate, permanent, heritable and transferable right in any immovable property <sup>1</sup>[\* \* \*] and

(i) who holds the title of Maharaja Bahadur, Maharaja, Raja Bahadur, Raja, Nawab Mumtazud-daula, Nawab Bahadur, or Nawab, if conferred or recognized by the <sup>2</sup>[Central Government] or the <sup>3</sup>[State Government], or

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1. The words “in Agra” omit. by s. 4 of U. P. Act IV of 1924.

2. Subs. for L.G. by A. O. 1937.

3. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

(ii) who holds as a hereditary title, the title of Rajwar, Rao Bahadur, Rao, Rai, Mirza Bahadur Mirza, Khan Bahadur, Rai Bahadur, Chaudhri, or Diwan, conferred or recognized by the <sup>1</sup>[Central Government] or the <sup>2</sup>[State Government] or

(iii) to whom such property was granted by the <sup>1</sup>[Central Government] or the <sup>2</sup>[State Government] as a reward for loyalty and good services or who has inherited directly or indirectly such property from the person to whom it was so granted, or

(iv) who holds such right in land assessed to land revenue to the amount of not less than <sup>3</sup>[seven thousand rupees a year], to apply to the <sup>2</sup>[State Government] for a declaration that the provisions of this part shall apply to him.

The applicant shall annex to his application a schedule showing the immovable property owned by him and the land revenue assessed on it.

**Explanation I** — Where such land or any part of it is held revenue-free it shall be deemed to be assessed to land revenue to the amount nominally assessed on it for the purpose of determining the rates payable in respect of it.

**Explanation II** — Where such land or any part of it is held revenue-free and land revenue has not been so nominally assessed the land revenue which shall be deemed to be payable for such land or such portion thereof shall be determined by rules made under clause (j) of sub-section (2) of section 38.

**Rejection of application.**

4. The <sup>2</sup>[State Government] may <sup>4</sup>[\* \* \*] reject such application either summarily or after such inquiry as it may think proper to make.

**Issue of notice.**

5. If such application is not rejected under section 4, the <sup>2</sup>[State Government] shall publish in the <sup>5</sup>[Official Gazette] a notice in English and in the vernacular reciting the fact that an application has been made and the purport thereof and calling upon all person interested in opposing the application to do so in writing within six months from the date of the publication of the notice in English.

**Grant or refusal of application.**

6. The <sup>2</sup>[State Government] after considering the application and the result of any inquiry made by it or under its orders and any further particulars or information called for by it and the cause (if any) shown by any person against the application, may <sup>4</sup>[\* \* \*] either refuse or grant the application.

**Notification and list of estate holders**

7. If the application is granted, the <sup>2</sup>[State Government] shall declare by notification in the <sup>5</sup>[Official Gazette] that the provisions of this part have been made applicable to the applicant in respect of the immovable property in which he has a separate, permanent, heritable

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1. Subs. for L.G. by A. O. 1937.

2. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

3. Subs. for "ten thousand rupees a year" by s. 2 of U. P. Act I of 1928.

4. The words "in its discretion" omit. by A. O. 1937.

5. Subs. for "Gazette" by *ibid*.

heritable and transferable right at the date of the notification, and shall enter his name in a list which shall be maintained by the <sup>1</sup>[State Government] Such list shall from time to time be corrected in accordance with rules framed under section 38.

**8.** (1) Any estate-holder may, by a registered instrument bearing a non-judicial stamp of fifteen rupees signed by him and attested by two or more witnesses, declare that any immovable property situated in <sup>2</sup>[Uttar Pradesh] not being “estate” or “settled estate” within the meaning of the Oudh Estates Act, 1869, or the Oudh Settled Estates Act, 1917, respectively, in which he has a separate, permanent, heritable and transferable right, and which is specified in the instrument, is a part of his estate for the purposes of this Act.

**Power to add to estate.**

Such declaration shall take effect from the date of the registration thereof.

(2) It shall be the duty of the registering officer to furnish the Collector of every district in which any portion of the property is situated with a property authenticated copy of the declaration, and on receipt of such copy the Collector shall cause a note to be made in the record of rights relating to the immovable property specified and shall also cause a copy of the declaration to be published in the <sup>3</sup>[Official Gazette] in English and in the vernacular.

**9.** The estate or any portion of the estate of an estate-holder in respect of which he dies intestate shall descend to a single heir in accordance with the order of succession and subject to the conditions prescribed in the first Schedule ;

**Devolution of estates.**

Provided that where a female succeeds for her life-time only, or where two or more females successively so succeed, the person next in succession shall take a vested interest on the death of the last male estate-holder, subject to such interest being divested retrospectively in case any such female being a widow, adopts a son under the provisions of section 12.

**10.** (1) Every estate-holder competent to contract shall be competent to transfer or to bequeath any portion of his estate to which the provisions of Part II have not been applied, his right or interest therein, in accordance with and only to the extent permitted by the personal law applicable to him.

**Power of estate-holder transfer or bequeath**

(2) If such transfer or bequest is in favour of —

(a) another estate-holder, or

(b) the person who would have succeeded to such estate or

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1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

2. Subs. for (the United Provinces) by the A. O. 1950.

3. Subs. for (Gazette) by the A. O. 1937.

would have taken a vested interest therein, under the provisions of this Act, had the person so transferring or bequeathing died intestate as to his estate at the time when the transfer or bequest took-effect, or

- (c) the daughter of the transfer or testator, or
- (d) a son of his daughter, or
- (e) a lineal male descendant in the male line,

the transferee or legatee in such case shall be an estate-holder in regard to the property to which he may become entitled under or by virtue of such transfer or bequest and shall hold the same subject to the same conditions as if he had inherited in on an intestacy, provided that in cases (c), (d) and (e) the property so transferred or bequeathed is at the time of such transfer or bequest assessed or deemed to be assessed to land revenue to the amount of not less than <sup>1</sup>[seven thousand rupees a year].

**Sections of  
Succession to  
Act applied to  
wills of estate-  
holders.**

**11.** Section 49, 50, 51, 55, 57, 58, 60 to 77, 82, 83, 85 and 88 to 98 of the Indian Succession Act, 1865, shall apply to all wills made by an estate-holder under the provisions of this Act for the purpose of bequeathing his estate, or any portion thereof, or any interest therein ;

Provided that marriage shall not revoke any such will ;

Provided also that nothing herein contained shall affect wills made before the commencement of this Act.

**Estate-holders'  
power to adopt.**

**12.** An estate-holder permitted by the personal law applicable to him to adopt a son, or to give authority to his widow to adopt a son for him, shall be competent to adopt a son or to grant such authority. But no adoption made by an estate-holder or by his widow and no authority given after the date of the commencement of this Act shall be deemed to be valid unless in addition to the requirements (if any) imposed by the personal law of the estate-holder the fact of such adoption has been declared, or such authority has been given, by a registered instrument attested by two or more witnesses.

Where under the personal law applicable to an estate holder his widow is competent to adopt a son without receiving authority from her husband for making such adoption, nothing herein contained shall be deemed to invalidate an adoption made by her merely by reason of no such authority being so given.

**Maintenance of  
surviving  
relatives of  
estate-holders.**

**13.** When a estate-holder dies leaving any such relatives as are mentioned in the second Schedule, any person for the time being in possession of his estate shall be liable to the extent of the property of the deceased which has come into his possession to pay to each of such relatives during his or her life or for such other period as is hereinafter mentioned, by two equal half-yearly instalments a reasonable annuity not exceeding the amount mentioned in the Schedule ;

Provided that such relative was at the date of the death of the deceased living together with him; and also that such relative is and continues to be without any other adequate means of maintenance.

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1. Subs. for "ten thousand rupees a year" by s. 2 of U. P. Act I of 1928.

If any part of the estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession such part or of the rents or profits thereof shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

**14.** Nothing herein contained shall be deemed to affect the right to maintenance of any person not specified in the second schedule who would be entitled to maintenance from the estate-holder under the personal law that would have been applicable to him had no notification under section 7 been issued.

**Right to maintenance under personal law.**

**15.** Subject to the provisions hereinbefore contained the maintenance shall continue —

**Continuance of annuities**

(a) in the case of a minor nephew till he ceases to be a minor;

(b) in the case of a daughter or widow till she would according to the personal law applicable to her cease to be entitled to maintenance ;

(c) in all other cases till the annuitant dies.

**16.** The estate-holder for the time being in possession of the estate shall provide for the reasonable expenses of the marriage of an unmarried daughter or daughters of the person to whom he has succeeded, so far as the income of the estate may permit.

**Marriage expenses of daughters of estate-holders.**

**17.** In determining what is a reasonable annuity under section 13 or reasonable expenses under section 16 regard shall be had to the usage of the family to which the estate-holder belonged or belongs as the case may be.

**Meaning of reasonable annuity**

**18.** An estate-holder competent to contract to whose estate the provisions of Part II do not apply may at any time apply to the [State Government]<sup>1</sup> for a declaration that the foregoing provisions of this part shall cease to apply to him. The <sup>1</sup>[State Government] on receipts of such application, may for any reason it may consider sufficient declare that the foregoing provisions of this part shall cease to apply to an estate-holder and publish a notification to that effect in the <sup>2</sup>[Official Gazette] in English and in the vernacular.

**Application for removal from list of estate-holders.**

Form the date of the publication of such notification in English the foregoing provisions of this part shall cease to apply to the estate-holder, and his estate shall henceforward be held subject to the personal law that would have been applicable to him had no notification under section 7 been issued, and his name shall be struck off the list maintained under that section.

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1. Subs. by the A. O. 1950 for (Prov'l. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

2. Subs. for "Gazette" by *ibid*.

**Judicial notice  
to be taken of  
notifications.**

**19.** The Court shall take judicial notice of notifications under sections 7 and 18 as well as of entries made in the list under section 7. The production of a copy of an entry in the list, certified by the signature of one of the Secretaries of the shall <sup>1</sup>[State Government] be conclusive proof of the fact of the entry in the said list.

**PART II**

**Application  
for  
permission to  
settle  
property.**

**20.** Notwithstanding any enactment to the contrary, it shall be lawful for an estate-holder, being entitled to a permanent, heritable and transferable right in an State, and in possession thereof and competent to contract, to apply in writing to the [State Government]<sup>1</sup> for permission to declare that such estate or a portion thereof shall in future beheld subject to the provisions of this part.

**Rejection of  
application.**

**21.** The <sup>1</sup>[State Government] may <sup>2</sup>[\* \* \*] reject such application either summarily or after such inquiry as it may think proper to make.

**Issue of  
notice.**

**22.** If such application is not rejected under section 21, the <sup>1</sup>[State Government] shall publish in the <sup>3</sup>[Official Gazette] a notice in English and in the vernacular, reciting the fact that an application has been made and the purport thereof, and calling upon all persons having claims enforceable against the applicant or his immovable property to notify the same in writing within six months from the date of publication of the notice in English, and also to show cause in writing within such period why the permission sought by the applicant should not be granted, and shall, where such a course is practicable, serve a copy of such notice upon all persons known, or appearing from the application or other information received, to be interested in opposing the application.

**Grant or  
refusal of  
permission.**

**23.** The <sup>1</sup>[State Government], after considering the application and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, and the cause, if any, shown by any person against the application, may <sup>2</sup>[\* \* \*] either grant or refuse permission, or grant permission in respect of a portion only of the property to which the application relates :

Provided that where any portion of the immovable property of the applicant is subject to any encumbrance or charge, or may be held liable for any existing debt, demand or claim, the <sup>1</sup>[State Government] shall not grant such permission unless the consent of all the encumbrances upon, or persons entitled to charges upon, or person having claims enforceable against, the immovable property, of the applicant is obtained, or the encumbrances, charges or claims of such persons as object to the grant of such permission are discharged, or arrangements considered satisfactory by the <sup>1</sup>[State Government] are made for their discharge, or the <sup>1</sup>[State Government] is satisfied that such persons will not be prejudiced by the grant of such permission.

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1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

2. The words (in its discretion) *Omit* by A. O. 1937.

3. Subs. for "Gazette" by *ibid*.



**24.** (1) It shall be lawful for any person for the time being entitled to and in possession of a settled estate, and competent to contract, to apply to the <sup>1</sup>[State Government] for permission to add to the settled estate any other immovable property in respect of which an application might be made by him under section 20.

**Application for permission to add to the settled estate.**

(2) On receipt of such application, the <sup>1</sup>[State Government] shall proceed according to section 21 or sections 22 and 23.

**25.** (1) Subject to the provisions of section 29, it shall be lawful for any person for the time being entitled to and in possession of a settled estate and being a male and competent to contract, to apply to the <sup>1</sup>[State Government] for permission to revoke wholly or in part any declaration that property shall held subject to the provisions of this part.

**Application for permission to revoke declaration.**

(2) The <sup>1</sup>[State Government] after considering the application and the result of any inquiry made by it or under its orders and any further particulars or information called for by it, may <sup>2</sup>[\* \* \*] either grant or refuse permission, or grant permission in respect of a portion only the property to which the application relates.

**26.** (1) Permission granted under section 23, 24, or 25 shall be in writing, signed by one of the Secretaries to the [State Government]<sup>1</sup>, and shall contain a description of the immovable property in respect of which permission is granted sufficient to identify the same.

**Form, contents and publication of permission.**

(2) Every such permission shall be published in the <sup>3</sup>[official Gazette] in English and in the vernacular, and shall remain in force until the expiry of three months from the date of publication in English thereof or until the death of the applicant, whichever shall first happen.

**27.** The applicant may, by an instrument in writing signed by him and attested by two or more witnesses, and registered within three months from the date of publication in English of such permission (but not by a will) declare that the whole or any portion of the property in respect of such permission has been granted under sections 23, 24 or 25 shall in future be held subject to or exempt from the provisions of this part as the case may be.

**Execution of declaration.**

Such declaration shall take effect from the date of the registration thereof.

**28.** Every declaration presented for registration under section 27 shall be accompanied by the written permission mentioned in section 26, and the registering officer before registering the declaration shall satisfy himself that the property specified in the declaration presented for registration is included in the permission granted under that section, and that such permission is still in force.

**Procedure.**

1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

2. The words (in its discretion) *Omit* by A. O. 1937.

3. Subs. for "Gazette" by *ibid*.

**Power to make certain declarations irrevocable.**

**29.** The person executing a declaration that any property shall be held subject to the provisions of this part may, in such declaration or by a subsequent instrument in writing, signed and attested as aforesaid, and registered, and any successor in interest of such person in possession of the settled estate and competent to contract, may, by any instrument signed and attested as aforesaid, and registered, provide that any such declaration shall as regards the whole or any specified portion of the settled estate be irrevocable.

**Duties of registering officer and Collector.**

**30.** (1) On the registration of a declaration under section 28 or of such subsequent instrument as is mentioned in section 29, it shall be the duty of the registering officer to furnish the Collector <sup>1</sup>[or the Deputy Commissioner] of every district in which any portion of the property is situated with a property authenticated copy of the same.

(2) On receipt of such copy the Collector <sup>1</sup>[or the Deputy Commissioner] shall cause a note to be made in such record or register as the <sup>2</sup>[State Government] shall direct, and shall also cause a copy of the declaration to be published in the <sup>3</sup>[Official Gazette] in English and in the vernacular.

**State Government empowered to exclude settled estate from operation of the Act.**

**31.** Notwithstanding anything in this Act contained, it shall be lawful for the <sup>2</sup>[State Government] for any reason which it may consider sufficient, on the application of the estate-holder, to declare by notification in the <sup>3</sup>[Official Gazette] that the settled estate or any part thereof to which he is entitled and of which he is in possession shall cease to be subject to the provision of this part.

Such declaration shall take effect from the date of the publication thereof in English.

**Dealings with settled estate to prejudice of successors prohibited.**

**32.** Except as otherwise provided by this Act no person entitled to a settled estate shall have power to transfer nor shall any Court cause to be sold in execution of a decree, such estate or any part thereof or an interest therein for any greater or larger interest or time than during his life, nor shall settled estate or any part thereof, or the profit thereof be held by any Court to be or have vested in such person for any larger or greater interest or time than for his life.

**Transfer of settled estate for a public purpose.**

**33.** (1) The person for the time being entitled to and in possession of a settled estate may, with the previous sanction of the <sup>2</sup>[State Government], transfer the same or any part thereof or any interest therein, either to the <sup>4</sup>[Government] or to any local authority, company or person, and in such case the provisions of section 32 shall not be applicable.

(2) Sanction shall only be given under sub-section (1) where the transfer is in the opinion of the <sup>2</sup>[State Government] for a public purpose of a charitable or religious nature or for a purpose beneficial to the public or to a section of the public, and any such sanction may

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1. Add. by s. 5 of U. P. Act IV of 1924.

2. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

3. Subs. for "Gazette" by *ibid*.

4. Subs. by the A. O. 1950 for (Crown) which had been subs. by the A. O. 1937 for (Secretary of State for India in Council).

impose such conditions as the <sup>1</sup>[State Government] deems expedient in respect of the extent or nature of the transfer or of the terms of the instrument (if any) by which the transfer is to be effected, or of any other matter.

(3) The <sup>1</sup>[State Government] in giving such sanction may also direct that the whole or any portion of the consideration for the transfer shall be used in the purchase of other immovable property and that the property so purchased shall form part of the settled estate.

**Explanation—** In this section “company” means a company as defined in clause (e) of section 3 of the Land Acquisition Act, 1894.

**34.** (1) The person for the time being entitled to, and in possessions of, a settled estate may lease the same or any part thereof— **Leases of settled estate.**

(a) from year to year, for or an term not exceeding seven years, without sanction, and

(b) for a term exceeding seven years, with the previous sanction of the Collector <sup>2</sup>[or the Deputy Commissioner] ;

Provided that it shall not be lawful for the Collector <sup>2</sup>[or the Deputy Commissioner] to sanction—

(i) a lease for an agricultural purpose for a period exceeding fourteen years, or

(ii) a lease for any other purpose, unless such lease is permitted by, and is in accordance with the provisions of rules made under clause (h) of sub-section (2) of section 38.

(2) The decision of the Collector <sup>2</sup>[or the Deputy Commissioner] under sub-section (1) that any lease is, or is not, for an agricultural purpose shall be final and conclusive.

(3) A premium or fine shall not be taken on any lease for an agricultural purpose, but the best rent payable year by year shall be reserved that can be reasonably obtained.

(4) A premium or fine on any lease, other than a lease for an agricultural purpose, shall not be taken, except in the circumstances, and subject to the conditions, specified in rules made in this behalf under clause (h) of sub-section (2) of section 38.

(5) No payment of any installment of rent before it falls due shall operate to the prejudice of any successor-in-interest of the person to whom the payment is made.

(6) A lease granted under this section shall be subject to any provision of the <sup>3</sup>[Agra Tenancy Act, 1901], <sup>3</sup>[or of the Oudh Rent Act, 1886],

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1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

2. Add. by s. 5 of U. P. Act IV of 1924.

3. Rep. See now the United Provinces Tenancy Act, 1939, (U. P. Act XVII of 1939) in Vol. IV.

**Devolution  
and bequest  
of settled  
estate.**

as amended by subsequent Acts applicable thereto, so far as those provisions are consistent with the provisions of this section.

**35.** (1) Notwithstanding the provisions of any contract or disposition to the contrary, every person for the time being entitled to a settled estate being a male, or being a female who under the personal law applicable to her would constitute a fresh stock of descent if she succeeded the estate on an intestacy, shall, unless such person succeeded as a widow or a mother, constitute a fresh stock of descent for the purposes of section 9 and on the death of such person intestate the settled estate shall descend according to the provisions of that section.

(2) Notwithstanding the provisions of any contract or disposition to the contrary, every person for the time being entitled to a settled estate who constitutes a fresh stock of descent according to sub-section (1) shall be competent to bequeath the same to any of the persons mentioned in the first Schedule, but to no other person :

Provided that such person shall not be competent to bequeath the same except as an impartible estate to be held by one person only subject to and in accordance with the provisions of this Act, or to subject the same the profits thereof to any demand, charge or encumbrance whatsoever.

Provided also that if the estate is bequeathed to a female who if such succeeded under the provisions of section 9 would take a life estate only the bequest shall confer on her a life estate only.

**PART III**

**Jurisdiction  
of courts  
barred in  
certain  
matters.**

**36.** (1) No court shall question the validity or propriety of any declaration made under section 7 or section 1 except on the ground that the applicant was not competent to contract on this date on which he made his application.

(2) No court shall question the validity or property of any declaration made under section 27 or section 29 as the case may be —

(a) except in so far as the declaration purports to affect property not included in the written permission granted by the <sup>1</sup> [State Government], or

(b) (where permission has been granted under section 23 on section 24) except in so far as the person by whom the declaration is made shall be found not to have been entitled to, and in possession of, a permanent, heritable and transferable right in the immovable property included therein or such person was not competent to contract, or

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1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

(c) where permission has been granted under section 25 unless such person shall be found not to have been entitled to, and in possession of, the settled estate at the date of the application under that section, or the declaration sought to be revoked was irrevocable,

(3) Except as provided in sub-sections (1) and (2) no Court shall exercise jurisdiction in or over the following matters ;

(a) the legality, propriety or regularity of an application under section 3, 18, 20, or 25 or of any proceeding held or order passed thereon ;

(b) the legality, propriety, regularity or sufficiency of any notice issued under section 5 or section 22 ;

(c) the rejection of an application under section 4 or section 21, or the grant or refusal of permission under sections 6, 18, 23, 24 and 25 ;

(d) the legality, propriety or regularity of any permission granted under section 26 or of any proceeding held under section 30, sub-section (2) ;

(e) the sufficiency or otherwise of the reasons for the issue of a notification under section 18 or section 31 ;

(f) the grant or refusal of sanction under section 33, or section 34 ;

(g) the propriety or validity of any decision under section 33 or section 34 that any transfer is, or is not, for a public purpose of a charitable or religious nature or for a purpose beneficial to the public or to a section of the public, or that any lease is, or is not, for an agricultural purpose.

**37.** (a) Nothing contained in this Act shall affect suits pending at the commencement of this Act, or shall be deemed to vest in, or confer upon, any person any right or title to any estate, or any portion thereof, or any interest therein, which is at the commencement of this Act vested in any other person who would have been entitled to retain the same if this Act had not been passed and the right or title of such other person shall not be affected by anything contained in this Act.

**Savings  
clause**

(b) Nothing in Part II shall be deemed to deprive the holder for the time being of a settled estate of his right to adopt, or to empower his widow to adopt, a son, or to affect the right of any person to maintenance under Part I or to affect the provisions of the Agra Tenancy Act, 1901, <sup>1</sup>[or of the Oudh Rent Act, 1886], as amended by subsequent Acts [or the right of the <sup>2</sup>[State Government] or any public authority to recover by legal process any sum due on account of land revenue or recoverable as such or recoverable under the provisions of the Revenue Recovery Act, 1890.

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1. *Rep.* See now the United Provinces Tenancy Act, 1939, (U. P. Act XVII of 1939) in Vol. IV.

2. *Subs.* by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).

**Power to  
make Rules**

**38.** (1) The <sup>1</sup>[State Government] may, after previous publication, makes rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the <sup>1</sup>[State Government] may make <sup>2</sup>[rules] for all or any of the following matters ;

(a) the procedure to be followed in submitting an application to the <sup>1</sup>[State Government] under this Act ;

(b) the form and contents of such application and the documents, if any, by which such application shall be accompanied ;

(c) the issue and service of notices ;

(d) the form of any declaration to be made under this Act ;

(e) the maintenance and correction of the list mentioned in section 7 ;

(f) the procedure to be adopted by the Collector <sup>3</sup>[or the Deputy Commissioner] under sub-section (1) of section 30 ;

(g) the payment or recovery of any expenses incurred in, or in connection with, proceeding held under this Act ;

(h) the period or periods for which and the restrictions and conditions subject to which, leases of the nature mentioned in the proviso to sub-section (1) of section 34 may be sanctioned by the Collector <sup>3</sup>[or the Deputy Commissioner] ;

(i) the circumstances in which and the conditions subject to which, a premium or fine may be taken under sub-section (4) of section 34 on a lease, other than a lease for an agricultural purpose ;

(j) the method in which the land revenue deemed to be payable on revenue-free land upon which land revenue has not been nominally assessed shall be determined.

(3) Rules made under clause (e) of sub-section (2) may require a report to be made by any person becoming or ceasing to be an estate-holder to such authority as may be prescribed therein, and may prescribe a penalty for failure to make such report and the mode in which such penalty may be recovered.

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1. Subs. by the A. O. 1950 for (Provl. Govt.) which had been subs. by the A. O. 1937 for (L. G.).  
2. For rules. See nots. no. 1058/I—202, d. June 3, 1921, no. 6853/I—A, d. Sep. 17, 1923, and no. 1806/IA—443, d. April 7, 1925, in Gaz. 1921, Pt. I. , p. 725, *ibid* 1929, Pt. I. p. 1354 and *ibid*, 1925, Pt. I, 442, U. O. 354-R/I-239-45 d. Dec. 31 1345 in Gaz. 1946, Pt. I-A p. 2, not. no. 508/I-168-44, d. July 12, 1945 and not. no. 508/I-160-44,44,d. Sep. 1, 1945, in Gaz. 1945, Pt. I-A, p. 33A, and 42 A.  
3. Added by sec. 5 of U.P. Act IV of 1924.

### **SCHEDULE-I**

The order of succession to the estate of estate-holders shall be as follows :

(1) firstly to the eldest son of such estate-holder ;

(2) or if such eldest son shall have died in his lifetime, leaving male lineal descendants, then to the eldest and every other son of such eldest son successively, according to their respective seniorities and their respective male lineal descendants ;

(3) or, if such eldest son of such estate-holder shall have died in the estate-holders' life-time without leaving male lineal descendants, then to the second and every other son of such estate-holder, and their respective male lineal descendants ;

(4) or, in default of such son or his male lineal descendants, if the personal law of the estate-holder permits him to adopt a son, to such person as the estate-holder shall have duly adopted and his male lineal descendants ;

(5) or, in default of any such duly adopted son, or his male lineal descendants, then to the widow of the deceased estate-holder for her life-time only : or if there be more widows than one, the widow first married to such estate-holder for her life-time only ;

(6) and on the death of such widow, where the personal law applicable to the estate-holder permits of a son being adopted to him, to such son as the said widow shall have duly adopted and his male lineal descendants ;

(7) or, in default of such first married widow and in default of a son duly adopted by her, and his male lineal descendants, then to the other widow, if any, of such estate-holder, next, in order of marriage, for her life, and on the death of such other widow to a son duly adopted by her and his male lineal descendants, then to the other surviving widow in the order of their respective marriages for their respective lives and on their respective deaths, to the sons duly adopted by them respectively ;

(8) or, in default of any such widow, or any such duly adopted son or any such male lineal descendants, then to the mother of the deceased estate-holder of her life-time only ;

**Explanation—** In this clause the word “mother” does not include a step-mother, and in the case where the deceased was a duly adopted son, it means the wife or widow of the father, who joined in or made the adoption, or, if the adoption was made by the father alone, and there are at the time of the death of the deceased more widows than one, it means the one who was first married, and on her death, the other surviving widows in the order of their respective marriages in succession.

(9) or, in default of or on the death of the mother then to the eldest and every other brother of such estate-holder successively, and to their respective male lineal descendants successively, brothers of the whole blood and their descendants being preferred to brothers of the half blood and their descendants ;

(10) or, in default of such brother, or his males lineal descendants, then to the nearest male agnate according to the rule of lineal primogeniture ;

(11) or, in default of any such agnate, then to such person as would have been entitled to succeed to the estate under the personal law that would have been applicable to such estate-holder had no notification under section 7 been issued ;

Provided that, when there are more persons than one so entitled the estate shall descend to a single person, according to the following rules, that is to say ;

(i) where among such persons some are connected by blood relationship and some by reason of marriage, the blood relations shall exclude the relations by marriage ;

(ii) where among such persons some are related by the whole blood, and some by the half blood, those related by the whole blood shall exclude those related by the half blood ;

(iii) where subject to the provisions of rules (i) and (ii) among such persons some are related through males only and some through females, the persons related through male only shall exclude the others ; and among others those shall be preferred in whose relationship the steps from the deceased proceed furthest through males ;

(iv) where among such persons, some stand in a nearer and some in more remote relationship to the deceased, but both are equally qualified under the three preceding rules, those in the nearer degree shall exclude those in the more remote ;

(v) where such persons stand in equal degree of relationship to the deceased, and are equally qualified under the four preceding rules, the state shall descend to the eldest male in the senior line ; but if there be no male heir, in that line, then to the eldest male in the next senior line in which there is a male heir, and if there be no male heir in any line, then to the eldest female in the senior line in which there is a female heir.



## **SCHEDULE-II**

### **PERSONS ENTITLED TO MAINTENANCE**

1. In the case of grand-parents, parents and senior widow of the deceased, the maximum amount of the annuity for each person shall be as follows :

(a) where the annual revenue payable to the Government is or exceeds three lakhs, Rs. 6,000 ;

(b) where the annual revenue payable to the Government is or exceeds two lakhs, but is less than three lakhs, Rs. 4,000 ;

(c) where such revenue is or exceeds one lakhs, but is less than two lakhs, Rs. 2,000 ;

(d) where the revenue is or exceeds Rs. 50,000, but is less than one lakh, Rs. 1,200 ;

(e) where the revenue exceeds Rs. 25,000, but is less than Rs. 50,000, Rs. 600 ;

(f) where such revenue is less than Rs. 25,000, Rs. 360.

<sup>1</sup>[(g) where such revenue is less than Rs. 10,000, Rs. 240.]

Where such estate or any part of it is held revenue-free, the land revenue nominally assessed on it to determine the rates payable in respect of it shall, for the purposes of this Schedule, be deemed to be the revenue payable for such estate or such portion thereof.

Where such estate or any part of it is held revenue-free, and land revenue has not been so nominally assessed, the land revenue which shall be deemed to be payable for such estate or such portion thereof shall be determined by rules made under clause (j) of sub-section (2) of section 38.

II— In the case of junior widows, brothers and sons of the deceased the maximum amount of the annuity for each person shall be one-half of the maximum amount prescribed by Article 1.

III— In the case of nephews of the deceased being fatherless minors, the maximum amount of the annuity for each person shall be one-third of the maximum amount prescribed by Article 1.

IV— In the case of unmarried daughters of the deceased, and widows of his sons and brothers, the maximum amount of the annuity for each person shall be one-fourth of the maximum amount prescribed by Article 1.

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1. *Add. by sec. 2 of U.P. Act No. 1 of 1928.*

