

THE OUDH SETTLED ESTATES ACT, 1917

[U.P. Act No. V of 1917]

THE OUDH SETTLED ESTATES ACT, 1917¹

(U. P. Act No. V of 1917)

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 30th May, 1917, and of the Governor-General on the 23rd July, 1917, and was ²published under section 81 of the Government of India Act, 1915, on the 11th August, 1917].

Preamble.

WHEREAS It is expedient to consolidate and amend the law for making better provision for the preservation of the estates of the taluqdars of Oudh and certain other persons ;

It is hereby enacted as follows :

**Short title,
extent.**

1. (1) This Act may be called the Oudh Settled Estates Act, 1917.

(2) It shall extend only to the estates or portions of an estate hereinafter referred to.

**Interpreta-
tion clause.**

Act I of 1869

**U. P. Act III
of 1910**

2. Unless there be something repugnant in the subject or context all words occurring in this Act which are defined in the Oudh Estates Act, 1869, as amended by Act X of 1885 and the Oudh Estates (Amendment) Act, 1910, shall be deemed to have the meanings respectively assigned to them by that Act.

“Settled estate” means immovable property for the time being subject to the provisions of this Act by virtue of a declaration made under section 10.

**Act IX of
1972.**

“Competent to contract” means competent to contract within the meaning of section 11 of the Indian Contract Act, 1872.

**Application
for
permission to
settle
property.**

3. Notwithstanding any enactment to the contrary, it shall be lawful for —

Act I of 1869

(a) any taluqdar or grantee whose name is inserted in the second, third, or fifth of the lists prepared under section or section 9 of the Oudh Estates Act, 1869, or the heir or legatee of such taluqdar or grantee, or

(b) any person whose name has been inserted in a list published under section 31-A, sub-section (3) of the said Act, or the heir or legatee of such person, or

1. For Statement of Objects and Reasons see Gaz. 1916, Pt. VII, p. 96; for R. S. Com., see *ibid.* 1917, Pt. VII, p. 21 ; and for discussion, see L.C. Pro., in *ibid.* 1916, Pt. VII, pp. 427, 708, and *ibid.* 1917, pp. 272 and 559.

2. See Gaz., 1917, Pt. VII, p. 889.

(c) such a transferee or legatee of any of the persons specified in clauses (a) and (b) as is referred to in section 14 of the Oudh Estates Act, 1869, or

(d) the heir or legatee of such a transferee or legatee as is referred to in clause (c),

being entitled to a permanent, heritable and transferable right in an estate, and in possession thereof, and competent to contract, to apply in writing to the ¹[State Government] for permission to declare that such estate or a portion thereof shall in future be held subject to the provisions of this Act.

4. The ¹[State Government] may ²[* * *] reject such application either summarily or after such inquiry as it may think proper to make.

Rejection of application

5. If such application is not rejected under section 4, the ¹[State Government] shall publish in the ³[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 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 to show cause also 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.

Issue of notice

6. The ¹[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 ²[* * *] either grant or refuse permission, or grant permission in respect of a portion, only of the property to which the application relates ;

Grant or refusal of permission

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 ¹[State Government] shall not grant such permission unless the consent of all the encumbrances upon, or persons entitled to charges upon, or persons 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 ¹[State Government] are made for their discharge, or the ¹[State Government] is satisfied that such persons will not be prejudiced by the grant of such permission.

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.*

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

7. (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 ¹[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 3.

(2) On receipt of such application the ¹[State Government] shall proceed according to section 4 or sections 5 and 6.

**Application
for
permission to
revoke a
declaration.**

8. (1) Subject to the provisions of section 12, 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 ¹[State Government] for permission to revoke wholly or in part any declaration that property shall be held subject to the provisions of this Act.

(2) The ¹[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 ²[* * *] either grant or refuse permission, or grant permission in respect of a portion only of the property to which the application relates.

**Form
contents and
publication
of
permission.**

9. (1) Permission granted under sections 6, 7, or 8, shall be in writing, signed by one of the Secretaries to the ¹[State Government], and shall contain a description of the immovable property in respect of which permission is granted sufficient to identify the same.

(2) Every such permission shall be published in the ³[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.

**Execution of
declaration.**

10. 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 which permission has been granted under sections 6, 7, or 8, shall in future be held subject to, or exempt from, the provisions of this Act, as the case may be.

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

Procedure.

11. Every declaration presented for registration under section 10 shall be accompanied by the writing mentioned in section 9, and the registering officer shall satisfy himself that the property specified in

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.*

the declaration presented for registration is included in the permission granted under that section, and that such permission is still in force.

12. The person executing a declaration that any property shall be held subject to the provisions of this Act 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 an 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.

Power to make certain declarations irrevocable.

13. (1) On the registration of a declaration under section 11 or of such subsequent instrument as is mentioned in section 12, 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 properly authenticated copy of the same.

Duties of registering officer and Collector.

(2) On receipt of such copy the Collector shall cause a note to be made in such record or register as the ¹[State Government] shall direct and shall also cause a copy of the declaration to be published in the ²[Official Gazette] in English and in the Vernacular.

14. Notwithstanding anything in this Act contained, it shall be lawful for the ¹[State Government] if, in its opinion, the holder for the time being of a settled estate is guilty of a breach of the conditions of the *sanad* under which such estate is held or for any other sufficient reason, to declare by notification in the ²[Official Gazette] that the settled estate to which such person is entitled and of which he is in possession shall cease to be subject to the provisions of this Act.

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

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

15. Except as otherwise provided by this Act, no person entitled to a settled estate shall have power to transfer, dispose of, alienate, convey, charge, encumber or lease the same or any part thereof, or the profits thereof, for any greater or larger interest or time than during his life, nor shall a settled estate, or any part thereof, or the profits thereof, be held by any court to be or to have vested in such person for any larger or greater interest or time than for his life.

Dealings with settled estate to the prejudice of successors prohibited.

16. (1) The person for the time being entitled to and in possession of a settled estate may transfer, dispose of, alienate, convey, charge, encumber or lease the same or any part thereof —

Transfer of settled estate for a public purpose.

(a) for a public purpose of a charitable or religious nature with the previous sanction of the ¹[State Government], or

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 (Gazette) by *ibid.*

[The Oudh Settled Estates Act, 1917]

(b) for any public purpose in favour of the ¹[Government] or, with the previous sanction of the ²[State Government] or a local authority.

**U. P. Act 11
of 1901 Act
XXII of 1886**

(2) Any sanction under sub-section (1) may impose such conditions as the ¹[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.

**Agricultural
leases or
settled
estates.**

17. The person for the time being entitled to and in possession of a settled estate may lease the same or any part thereof for an agricultural purpose, at the best rent payable that can reasonably be obtained without fine or premium,

(a) from year to year or for a term not exceeding seven years, or

(b) with the previous sanction of the Collector, for a term exceeding seven, but not exceeding fourteen years ;

Provided that a lease granted under this section —

**U. P. Act II of
1901
Act XXII of
1886**

(1) shall be subject to any provisions of the Agra Tenancy Act, ³1901, or the Oudh Rent Act, ³1886, as the case may be, applicable thereto, and

(2) shall, unless it is in respect of land situated outside Oudh, determine on the expiration of the settlement during the currency of which it has been granted, notwithstanding that it purports to be granted for a term outlasting such settlement.

**Other leases
of settled
estate.**

18. The person for the time being entitled to and in possession of settled estate may lease the same or any part thereof for any other purpose —

(a) at the best rent that a can reasonably be obtained without fine or premium, from year to year or for a term not exceeding seven years, or

(b) with the previous sanction of the Collector granted in accordance with any rules made under section 24 (2) (g) for a term exceeding seven years.

**Appeals to
the
Commissioner**

19. Any person aggrieved by an order of the Collector refusing, or granting sanction under section 17, or 18, may, within sixty days from the date of the order, appeal to the Commissioner, and the Commissioner may thereupon either maintain the order of the Collector or pass any other order that the Collector was competent to pass.

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

2. Subs. by the A. O. 1950 for (Crown) which had been subs. by the A. O. 1937 for (Secy of State).

3. Rep. See now the U. P. Tenancy Act, 1939 (U. P. Act XVII of 1939), *infra*.

20. Where any land is leased under the provisions of section 16, 17, or 18, 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.

**Anticipation
of rents.**

21. (1) No court shall question the validity or propriety of any declaration made under section 10—

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

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

(b) (where permission has been granted under section 6 or 7) 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

(c) (where permission has been granted under section 8) 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.

(2) Except as provided in sub-section (1), no court shall exercise jurisdiction in or over the following matters :—

(a) the legality, propriety, or regularity of an application under section 3, 7 or 8 or of any proceeding held or order passed thereon ;

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

(c) the rejection of an application under section 4 or the grant or refusal of permission under section 6, 7 or 8 ;

(d) the legality, propriety, or regularity of any permission granted under section 9, or of any proceeding held under section 13, sub-section (2) ;

(e) the sufficiency or otherwise of the reasons for the issue of a notification under section 14 ;

(f) the exercise by the ¹[State Government] or a Collector or Commissioner of any discretion to grant, refuse, modify or cancel any sanction vested in it or him by sections 16, 17, 18, or 19 ;

(g) the propriety or validity of any decision under sections 16, 17, 18 or 19 that any transfer is or is not for a public purpose or of a charitable or religious nature, or that any lease is or is not for an agricultural purpose.

22. (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 ordinary

**Devolution
and bequest
of settled
estates.**

1. Subs. by the A. O. 1950 for (Crown) which had been subs. by the A. O. 1937 for (Secy of State).

law to which persons of her religion and tribe are subject, would constitute a fresh stock of descent if she succeeded to 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 22 of the Oudh Estates Act, 1869, and on the death of such person intestate the settled estate shall descend according to the provisions of that section.

Act I of 1869

(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 subject to the provisions of the Oudh Estates Act, 1869 ;

Act I of 1869

Provided that such person shall not be competent to bequeath the same except as an impartible estate to be held by one person only the profits thereof to any demand, charge or encumbrance whatsoever, or to bequeath the same to a stranger, so as to exclude from succession any person belonging to any of the classes specified in section 22 of the Oudh Estates Act, 1869 ;

Act I of 1869

Saving clause

23. Nothing in this Act 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 VIII of the Oudh Estates Act, 1869, or to affect the provisions of the ¹[Oudh Rent Act, 1886] or the right of the ²[State Government] or any public revenue or recoverable as such or recoverable under the provisions of the Revenue Recovery Act, 1890.

Act I of 1869

Act XXII of 1886

Act I of 1890

Power to make rules.

24. (1) The ²[State Government] may, after previous publication, make ³[rules], for carrying out the purposes of this Act, provided that such rules shall not be inconsistent with the provisions of the Oudh Estates Act, 1869.

Act I of 1869

(2) In particular, and without prejudice to the generality of the foregoing provision, the ²[State Government] may make ⁴rules for all or nay of the following matters —

(a) the procedure to be followed in submitting an application to the ²[State Government] under this Act ;

1. *Rep.* See now the U. P. Tenancy Act, 1939 (U. P. Act XVII of 1939) I, inpro.

2. *Subs.* by the A. O. 1950 for (Crown) which had been subs. by the A. O. 1937 for (Secy of State).

3. For rules under this subs. see not no. 25/1-256 B. d. Jan. 3, 1901, and no. 2828/1—816, d. Dec. 30, 1913 (issued under s. 20 of the U. P. Act II of 1900 but kept in force under this Act) and no. 6856/1 a-39, d. Sept. 17, 1923, published in Gaz., 1901, Pt. I, p. 4, *ibid*, 1914, Pt. I, p. 2, and *ibid*, 1923, Pt. I, p. 1350, respectively.

4. For rules under this subs. see not no. 1806IA—443, d. April 7, 1925, no. 1979/1-A—749, d. April 17, 1925 and no. 4132/IA—7491913, d. Oct. 21, 1926, published in Gaz., 1925, Pt. I, p. 442, *ibid*, 1925, Pt. I, p. 517, and *ibid*, 1926, Pt. I, p. 990, no. 1379/1224—41, d. Sept. 15, 1943, in Gaz. 1943, Pt. IA p. 247, no. U—0354 R/1239—45, d. Dec. 31, 1945, in Gaz. 1946, Pt. IA, p. 2.

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

(c) the issue and service of notices under section 5 ;

(d) the form of any declaration to be made under section 10 ;

(e) the procedure to be adopted by the Collector under section 13, sub-section (2) ;

(f) the payment or recovery of any expenses incurred in, or in connexion with, proceedings held under this Act ;

(g) the period or periods for which, and the restrictions subject to which, leases for a purpose other than agricultural and for a period exceeding seven years may be sanctioned by the Collector under section 18 (b).

25. The enactments specified in the Schedule are hereby **Repeal** repealed to the extent specified in the fourth column thereof.

THE SCHEDULE

Enactments repealed

(See section 25)

Year	Number	Short title	Extent of repeal
1900	II	The Oudh Settled Estates Act, 1900.	So much as has not already been repealed.
1910	II	The Oudh Settled Estates (Amendment) Act, 1910.	The whole.

