

# THE EAST PUNJAB HOLDINGS

(CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT , 1948

## East Punjab Act No. 50 of 1948

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<sup>1</sup>THE EAST PUNJAB HOLDINGS OF (CONSOLIDATION AND PREVENTION OF  
FRAGMENTATION) ACT, 1948

EAST PUNJAB ACT NO. 50 OF 1943

*(<sup>1</sup>For statement of objects and Reasons see East Punjab Government Gazette (Extraordinary), 1949 pages 601-602. For the Select Committee Report, see East Punjab Government Gazette (Extraordinary). 1948, Part V pages 19-32; for proceedings in the*

Assembly, see *East Punjab Legislative Assembly Debate, Volume III 1948, pages 45-58 and 300-309*).

[Received the assent of His Excellency the Governor General of India on the 7th December, 1948, and first published in the East Punjab Government Gazette (Extraordinary) , of December 14, 1948].

1	2	3	4
YEAR	NO.	Short title	Whether repealed or other wise affected by legislation
1948	50	The East Punjab Holding Consolidation and prevention of fragmentation Act, 1948.	Amended by Punjab act 33 of 1950 <sup>2</sup>  Amended by the Adaptation of Laws Order, 1950  Amended by the Adaptation of Laws (third Amendment) Order, 1951  Amended by Punjab ACT 8 of 1952 <sup>3</sup>  Amended by Punjab Act 20 of 1953 <sup>4</sup>  Amended by Punjab Act 22 <sup>5</sup> - 39 <sup>6</sup> and 40 <sup>7</sup> of 1934. Amended in part by Punjab act of 1955 <sup>8</sup>

<sup>2</sup>For Statement of objects and Reasons, see *East Punjab Government Gazette (Extraordinary), 1950, page 838; for proceedings in the Assembly, see Punjab Legislative Assembly Debates 1950, Volume II, pages (9) 106-(9) 109*).

<sup>3</sup>For Statement of Objects and the Reasons, see *East Punjab Government Gazette (Extraordinary), dated 10th July, 1952, Pages 552; For the proceedings in the Assembly, see Punjab Legislative Assembly Debates 1952, Volume II, pages (24) 63-(24) 82; and the proceedings in the Council, see Punjab Legislative Council Debates 1952, Volume II, pages 16 (4) - (16) 18.*

<sup>4</sup>For Statement of Objects and Reasons, see *East Punjab Government Gazette (Extraordinary), 1953 pages 134-35; for Proceedings in the Assembly, see Punjab Legislative Assembly Debates, 1953, Pages 296-98.*

<sup>5</sup>For Statement of objects and Reasons, see *Punjab Government Gazette (Extraordinary), 1954 page 92*).

<sup>6</sup>For Statement of objects and Reasons, see *Punjab Government Gazette (Extraordinary), 1954, page 828.*

<sup>7</sup>For Statement of objects and Reasons, see *Punjab Government Gazette (Extraordinary), 1954, pp. 926(c) and 926 (d).*

<sup>8</sup>For statement of Objects and Reasons, *Punjab Government Gazette (Extraordinary), 1955, page 128.*

1	2	3	4
YEAR	NO.	Short title	Whether repealed or other wise affected by legislation
1948	50	The East Punjab Holding (Consolidation and prevention of	Amended by Punjab Act No.46 of 1956 <sup>1</sup>  Extended to the territories which

		fragmentation) Act, 1948.	immediately before the 1st November 1956. were comprised in the State of Patiala and East of Punjab States Union by Punjab Act no.5 of 1957 <sup>2</sup>  Amended by Punjab ACT No. 15 of 1959 <sup>3</sup>  Amended by Punjab Act No. 20 of 1959 <sup>4</sup>  Amended by Punjab Act No. 12 of 1963 <sup>5</sup>  Amended by Punjab Act No. 27 of 1960.6  Amended by Punjab Act No. 12 of 1962 <sup>7</sup>  Amended by Punjab Act No. 25 of 1962 <sup>8</sup>  Amended by Punjab Act No. 39 of 1963 <sup>9</sup>  Amended by Punjab Act No. 9 of 1969 <sup>10</sup>
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<sup>(1)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary),1956, page 1086).

<sup>(2)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1957 , page 339).

<sup>(3)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1959, page 366).

<sup>(4)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary),1958, page 1478-79)

<sup>(5)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1959 page 1940).

<sup>(6)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1960, page 248).

<sup>(7)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary),1962 page 510).

<sup>(8)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1962, page 1616).

<sup>(9)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1963, page 1146).

<sup>(10)</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1969 page 422).

An Act to provided for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in <sup>11</sup>[the State of Punjab] <sup>12</sup>[and for the assignment or reservation of land for common purposes of the village].

**It is hereby enacted as follows: -**

*(<sup>11</sup>Substituted for the words "the Province of East Punjab " by the Adaptation of Laws (Third Amendment) order, 1951).*

*(<sup>12</sup> Added and deemed always to have been so added by Punjab Act No. 27 of 1960).*

## CHAPTER I

### PRELIMINARY

1. Short title, extent and commencement:

- (1) This act may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act 1948.
- (2) It extends to whole of the <sup>1</sup>[State] of <sup>2</sup>[Punjab].
- (3) This section shall come into force at once and the remaining provisions of the act shall come into force in such area and from such dates as the <sup>1</sup>[state] Government may by notification appoint in his behalf the different dates may be appointed for the coming into force of different provisions of the Act.

## Interpretation

<sup>2/3</sup> 2. In this Act, unless there is anything repugnant in the subject or context,-

- (a) 'Consolidation Officer" means an officer appointed as such under section 14 by the <sup>1</sup>[State] Government and includes any person authorized by the <sup>1</sup>[State] Government perform are all any of the functions of the consolidation officer under this Act;
- (b) "Consolidation of Holdings " means the amalgamation and the redistribution of all or any of lands in an estate so as to reduce the number of plots in the holdings;

*(<sup>1</sup>Substituted for the word " Province " by the Adaptation of Laws order, 1950.*

<sup>3</sup>Section 4 of the Punjab Act no. 39 of 1963, reads as follows: -

*"Validation.- Notwithstanding any thing contained in the Principle Act or in any other law for the time being in force in any judgment, decree or order of any court or other authority, where in any scheme made at any time before the commencement of this Act, land has been assumed or reserved for common purpose referred to in sub-clause (iii) or sub-clause (iv) of clause (bb) of section 2 the principle Act, as amended by this Act, the assignment or reservation of such land for such purpose shall be, and shall be deemed always to have been, valid and no such scheme shall be questioned on the ground that such land could not be assigned or reserved for such purpose in such scheme".*

<sup>3</sup>Section 2 of Punjab Act No. 9 of 1939, reads as follows; -

*"Validation. - Notwithstanding any thing contained in any judgment, decree or order of any court or other authority to the contrary where in any scheme made at any time before the commencement of this validation Act, land has been assigned or reserved for a common purpose as define in the clauses (bb) of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, in accordance with the executive instructions issued by the Government from time to time such as scheme shall be, and shall be deemed always to have been, valid and no such scheme shall be questioned merely on the ground that the scale for such assignment or reservation had not been laid down by rules farmed under the said Act".*

<sup>1</sup>[(bb) "Common purpose" means any purpose in relation to any common need convenience or benefit of the village];

*(<sup>1</sup>Insrted by Punjab Act 22 of 1954. This clause shall be deemed always to have been to inserted) .*

<sup>2</sup>[ and including the following purposes:

(i) extension of the village Abadi; <sup>3</sup>[\*].

(ii) Providing income for the Panchayat of the village concerned for the benefit of the village community].

*(<sup>2</sup>Added and deemed always to have been so added by Punjab Act No. 27 of 1960).*

*(<sup>3</sup> The word "and" omitted and shall be deemed always to have been omitted by Punjab Act No. 39 of 1963, section 2).*

<sup>4</sup>[(iii) Village roads and paths; village drains village wells; ponds or tanks; village water-course or water channels; village bus stands and waiting places; manure pits; hada rori; public latrines; cremation and burial grounds, Panchayat Ghar; Janj Ghar; grazing grounds; tanning places of religious or charitable nature; and

*(<sup>4</sup>Added and shall be deemed always to have been added by Punjab Act No. 39 of 1963, section 2).*

(iv) Schools and play grounds; dispensaries, hospitals and institutions of like nature, waterworks or tube-wells whether such schools, playgrounds, dispensaries, hospitals institutions, waterworks or tube-wells may be managed and controlled by the State Government or not].

(c) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:'

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

(d) "Land " means which is not occupied as the site of any building in the town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture, or a pasture, and includes the sites of buildings and other structures on such land;

(e) "Notified area" means any area notified as such under section 3;

(f) "Owner" means in the case of unlanded land the lawful occupant and when such land has been mortgaged , owner means the mortgagor; in the case of alienated land, owner means the superior holder;

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

(h) "Settlement officer (Consolidation)' means an officer appointed as such under section 20 by <sup>1</sup>[State] Government and includes any person authorized by the <sup>1</sup>[State] Government to perform all or any of the functions of the settlement Officer (Consolidation) under this Act.

(i) " Standard area": in respect of any class of land means the area which the <sup>1</sup>[State] Government may from the time to time determine under section 5 as the minimum area necessary for the profitable cultivation in any

particular notified area and includes a standard area revised under the said section';

- ( j) "sub-division" means apart on estate recorded as Sub-division, *pati* , *tarf* or *pana* in a record of rights prepared under section 31 of the Punjab land Revenue Act, 1887, provided it forms a compact block; and
- (k) Words and expressions used in this act but not defined, have the meanings assigned to them in the Punjab Land Revenue Act, 1887.

## CHAPTER II

### DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS

3. Determination of notified areas - The <sup>1</sup>[State] Government may, after such inquiry as it deems fit specify any estate or sub-division of an estate as a notified area for the purposes of this chapter of this Act.

((<sup>1</sup>*substituted for the word "provincial" by the Adaptation of Laws Order, 1950*).

4. Settlement of standard areas:

- (1) The <sup>1</sup>[state] Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot,
- (2) The <sup>1</sup>[State] Government shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objection thereto.

5. Determination and revision of standard areas:

- (1) The <sup>1</sup>[State] Government shall after considering the objections, if any received within three months of the date publication of the notification under sub-section (2) of section 4 in the estate concerned and making such

further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.

- (2) The <sup>1</sup>[State] government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1) such revision shall be made in the manner laid down in section 4 and sub-section (1) of section 5.
  - (3) The <sup>1</sup>[state] Government shall by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).
6. Entry in the record-of-rights:
- (1) On notification of a Standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record of rights.
  - (2) Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

**7. Transfer and lease of fragment:**

- (1) No person shall transfer any fragment in respect of which notice has been given under sub-section (2) of section 6 unless there by the fragment becomes merged in the contiguous survey number or recognized sub-division of survey number.
- (2) Notwithstanding anything contained in the Punjab Tenancy act, 1887 no such fragments shall be leased to any person other than a person cultivating and land, which is contiguous to the Fragment.

*XVI of 1887*

*(<sup>1</sup>Substituted for the word "Provincial " by the Adaptation of Laws Order , 1950).*

8. Fragmentation prohibited: No land in any notified area shall be transferred or partitioned so as to create fragment.

9. Penalty for transfer partition contrary to provisions of Act: The Transfer of partition of any land contrary to the provisions of this Act shall be void.

**10. Valuation of Fragment** - Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall after hearing the applicant and the owners of the contiguous survey number or recognized sub-divisions of survey numbers determine the market price, and such determination shall be final and conclusive for the Purposes of the chapter.

**11. Transfer of fragment** - The owner referred to in the preceding section shall in the first instance offer the fragment for sale .to the owners of contiguous survey numbers of recognized sub-divisions of survey numbers, and in case of there refusal to purchase for the price as determined under the last preceding section, may transfer it to the <sup>1</sup>[Government ] for the purpose of the <sup>2</sup>[State] on payment by the <sup>1</sup>[Government ] of such price as aforesaid to persons possessing interest there in as collector may determine and thereupon the fragment shall vest absolutely in the <sup>1</sup>[Government] for the purpose of the <sup>1</sup>[State ] free from all encumbrances.

*(<sup>1</sup>Substituted for the word "Crown" by the Adaptation of Laws order, 1950).*

*(<sup>2</sup>Susbstituted for the word "Province " by the Adaptation of Laws order, 1950).*

12. Partition of estate assessed to payment of revenue to Government or separation of share thereof - When a decree is transferred is to the Collector under section 54 of the code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the <sup>1</sup>[Government] in any notified area for which standard areas have been fixed, or for the separate possession of the share of such an estate, on such partition or separation shall be made so as to create a fragment.

13. State Government or local authority not acquire land so as to leave fragment: Notwithstanding any thing contained in any law for the time, being in force no land shall be acquired by the <sup>1</sup>[State] Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

- (1) If any land acquired by the <sup>1</sup>[state] Government or any local authority is in excess of its requirements, it shall be offered for the sale in the first instance to the owners of the contiguous survey numbers or the recognized sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

## CHAPTER III

### CONSOLIDATION OF HOLDINGS

14. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings - (1) With the object of consolidating holdings in any estate or group of estates or any part thereof for the purpose of better cultivation of lands therein the <sup>1</sup>[State] Government may of its own motion or on application made in this behalf declare by the notification and by publication in the prescribed manner in the estate or estates concerned its intention to make a scheme for the consolidation of holdings in such estate or estates or part thereof as may be specified .

(2) On such Publication in the estate concerned the <sup>1</sup>[State] Government may appoint a Consolidation officer who shall after obtaining in the prescribed manner the advice of landowners of the estate or estates concerned <sup>2</sup>[and of the non-proprietors and the Gram Panchayat, if any, constituted in such estate or estates under the Gram Panchayat Act [No. IV of 1953] prepare a scheme for the consolidation of holdings in such estates or estates or part thereof as the case may be.

*(<sup>1</sup>Substituted for the word "Provincial" by the Adaptation of Laws orders, 1950).*

*(<sup>2</sup>Inserted by the east Punjab Holdings (Consolidation and Prevention of Fragmentation), (Amendment and validation) Act, 1955 (Punjab Act, 7 of 1955).*

*Section 3 of Punjab Act 7 of 1955, reads thus :-*

*"Validation of certain proceedings:- No scheme of Consolidation under the East Punjab Holdings (consolidation and Prevention of Fragmentation) Act, 1948 shall be deemed to be invalid merely on the ground that the advice of non-Proprietors and Gram Panchayat was not so obtained during any consolidation proceedings before the commencement of this Act".*

<sup>1</sup>[(3) Where a notification under Sub-section (1) has been made in respect of a group of estates and the holdings is situated in more than one estate in the group, then notwithstanding any thing contained in the Punjab land Revenue Act. 1887, the scheme prepared by the Consolidation Officer may provided for the alteration of the boundaries of such estates.]

*(<sup>1</sup>New sub-section (3) added by Punjab Act No. 15 Of 1959) .*

15. Scheme to provide compensation: (1) The Scheme prepared by the Consolidation Officer shall Provide for the payment of compensation to any Owner who is allotted a holding of less market value than of his original holding for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) \* \* \* \* \* <sup>2</sup> \* \* \* \* \*

*(<sup>2</sup>Sub section (2) of Sec. 15, omitted by Punjab Act No. 23 of 1960, section 2).*

16. Occupancy Tenancies: (1) The scheme prepared by the consolidation Officer, may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.

(2) When the scheme is <sup>3</sup>[confirmed] under section 20 the land so allotted to the occupancy tenant and the landlord shall, notwithstanding any thing to the contrary contained in the Punjab Tenancy Act, 1887, or in any other law for the time being in the force, be held by each of them respectively in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be extinguished.

*(<sup>3</sup> Substituted for the words "finally sanctioned" by Punjab Act no. 23 of 1962, section 2).*

<sup>4</sup>[16-A Power to make Provision in the scheme to partition joints lands and join occupancy tenancies:

*(<sup>4</sup>New Section 16-A, inserted by Punjab Act no. 20 of 1959).*

- (1) Notwithstanding any thing contained in chapter IX of the Punjab Land Revenue Act 1887, except section 117 thereof the scheme prepared by the Consolidation Officer may Provide for the partition of land between joint owners of land, or between joint tenants of a tenancy in which a right of occupancy subsists, in accordance with the share of each owner or tenant in the land or tenancy as the case may be, if-
  - (a) such share is recorded under Chapter IV of that Act as belonging to him, or
  - (b) the right of owner or tenant to such a share has been established by a decree which is still subsisting at the time of preparing the scheme , or
  - (c) a written acknowledgement of such right has been executed by all persons interested in the admission or denial thereof.
  
- (2) When the scheme is <sup>1</sup>[\*] confirmed under section 20, the land so partitioned shall notwithstanding any thing to the contrary contained in any law for the time being in force, be held by each such owners or tenants in full right of ownership or tenancy, as the case may be and the rights of other joint owners or joint tenants, in the land shall be deemed to be extinguished.

*(The word “finally” omitted by Punjab Act No. 25 of 1962, section 3.)*

17. Amalgamation of public roads etc. within scheme for consolidation of holdings -
- (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes , shall be extinguished or , as the case may be , transferred to a new

road , street lane, path, channel, drain , tank, pasture or other land reserved for common purposes laid out in the scheme of consolidation.

(2) The declaration in Sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may within thirty days after the publication of the declaration under Sub-section (1), State to the consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right;

Provided that no claim for compensation on account of extinction or diminution of the right of public highway, over such road, street, lane, path channel, drain, tank, pasture or other land reserved for common purposes shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the settlement officer (Consolidation) together with the objections received, his recommendation thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such re-compensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and persons by whom such compensation if any is Payable, shall be final.