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ACT, 1955

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(Pepsu Act 13 of 1955)

Along with

1. The Pepsu Tenancy & Agricultural Lands Rules, 1958
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THE PEPSU TENANCY AND AGRICULTURAL LANDS ACT, 1955

(Pepsu Act, 13 Of 1955)



1. Short title, and commencement 1
2. Definitions 1
3. Permissible limit 2
4. Act to over hide other laws 4
5. Reservation of Land for personal Cultivation 4
- 5A. Reservation of additional land for personal cultivation in certain cases. 5
6. Land reserved for personal cultivation to be notified 5
7. Termination of tenancy 5
- 7A. Additional groups for termination of tenancy in certain cases 6
- 8-A Certain sales of tenancy land not pre-emptible 8
- 8-B. Certain mortgages to be deemed as tenants the Act 9
9. Maximum amount of rent payable 9
10. Determination of rent 9
11. Receipt for rent 10
12. Prohibition against recovery of excessive rent 10
13. Liability to refund amount unlawfully recovered 10
14. Bar on eviction from dwelling house 10
15. Option to tenant to purchase site of dwelling house 11
16. Right of tenant to make improvements on land 11
17. Compensation for improvements 12
18. Devolution to tenancy on death of tenant 12
19. Rights and privileges of tenants under other laws not affected 13
- 20 Definition of tenant 13
21. Application of this Chapter to evacuee lands 13
22. Acquisition of proprietary rights by tenants 13
23. Determiante on of compensation for acquisition of proprietary rights 14
24. Tenant may abandon his intention to acquire proprietary rights 14
25. Forfeiture of right to acquire proprietary rights 15
26. Principles of compensation for acquisition of proprietary rights 15
27. Compensation payable in instalments 15
28. Pavement of compensation to landowner 15
29. Recovery of land revenue, etc., from tenants and their right to set off the same against rent 15
- 29-A. Right of landowners in certain cases to enforce acquisition of Proprietary rights by tenants 16
30. Proprietary rights to devolve on heir 16
31. Bar of transfer of ownership rights 16
32. Certain transfers not affect rights of tenants under this Chapter 16

CHAPTER IV-A

Ceiling on Land and Acquisition and Disposal of Surplus Area

32-A. Ceiling on land	17
32-B. Returns by persons having land in excess of the ceiling	17
32-BB. Declarations supported by affidavits to be furnished by certain landowners and tenants	18
32-C. Collection of information through other agency	18
32-D. Submission of Statement to Government	19
32-DD. Future tenancies in surplus area and certain judgments etc. to be ignored	20
32-E. Vesting of surplus area in the State Government	21
32-F. Power to take possession of surplus area	22
32-FF. Certain transfers not to affect the surplus area	22
32-G. Principles for payment of compensation	23
32-H. Payment of compensation	24
32-J. Disposal of Surplus Area.	24
32-K. Exemptions from ceiling on land	25
32-KK. Land owned by Hindu undivided family to be deemed land of one landowner	28
32-L. Ceiling on future acquisition of land	28
32-M. Ceiling on future acquisition by inheritance	28
32-MM. Power to separate share of landowners in joint lands	29
32-N. Definition of public purpose 'surplus area' and 'land'	29
[32-NN. Removal of certain doubts	30
CHAPTER IV-B : Constitution of Land Commission	30
CHAPTER V CHAPTER VI Miscellaneous	
39. Appeals and revision	31
40. Correction of clerical errors	31
41. Officers holding enquiries to have powers of civil courts	31
42. Penalty for making false statement	32
43. Summary eviction and fine	32
44. Certain officers to be Public servants	33
45. Procedure	33
46. Court-fees	33
47. Bar of jurisdiction	33
48. Protection of action taken under this Act	33
49. Mode of recovery of compensation and penalty	33
50. Delegation	34
51. Exemption of certain lands	35
51-A. Exemption of lands granted for gallantry before 26 th January 1950	35

52. Power to make rules
53. Repeal and saving

THE PEPSU TENANCY AND AGRICULTURAL LANDS RULES, 1958.

PART 1-Preliminary

1. Short title and commencement	37
2. Definition	37
3. Appointment powers and jurisdiction of prescribed authorities	37
4. Prescribed relatives for personal cultivation	37
5. Conversion of ordinary acres into standard acres	38
PART-II - Reservation of Land	
1. Intimation of Reservation	38
7. Reservation by widows, minors, etc.	38
8. Procedure for dealing with reservation forms.	39
10. Notice for the Purchase of a site of a dwelling-house	39
11. Application for Purchase of site	39
12. Form of Certificate and fee therefore	39
13. Period for application to make improvement	39
14. Application for acquisition of proprietary rights	39
15. Form of Certificate	39
16. Declaration under Section 24 of the Act	40
17. Annual instalments for payment of compensation	40
18. Contents of award	40
18-A. Application for vesting of proprietary rights upon tenant	40
19. Form of return to be furnished by persons having land an excess of the ceiling and manner of furnishing thereof	40
20. Patwari to assist landowner or tenant in filling up Form VII-A or VII-B	41
21. Verification of particulars given in returns referred to in rule 19	41
21-A. Form, etc., of declaration under Section 32-BB of the Act	41
21-B. Collection of information through Revenue Field Staff, under Section 32-C of the Act	42
22. Draft statement	42
23. Final Statement	43
23-A. Prescribed relations for the purposes of Section 32-FF of the Act	43
23-B. Allocation of land for the purposes of second proviso to clause (a) of sub section (1) of Section 32-G of the Act	43
24. Form of compensation statement	43
24-A. Form of notice	43
24-B. Made of Payment of Compensation	44
24-C. Issue of voucher for cash payment	44
24-D Account of Voucher	44

CONTENTS

25. Period for removal of building, structure, tube-well or crop from surplus area	44
25 - A.	45
26. Return in respect of land acquired by a person subsequently	45
PART VI - Pepsu Land Commission and Functions thereof	
28. Determination of fair rent and classification and soils	46
29. Determination of market value of building structure, tube-well or crop	46
30. Exemption of orchards where they constitute compact reasonably areas, specialized farms engaged in cattle breeding, dairying or wool raising and suga cane farms operated by sugar factories	46
31. Exemption of efficiently managed farms	48
31-A. Awarding of marks to farms growing non-prescribed crops	49
32. Form and manner of appeals	49
33. Procedure	49
34. Court fee	50
35. Manner of service of notices or orders	50
36. Cancellation of the Pepsu Tenancy and Agricultural Land Rules, 1953	50
THE UTILISATION OF SURPLUS AREA SCHEME, 1960, FRAMED UNDER SECTION 32-J OF THE PEPSU TENANCY AND AGRICULTURAL LANDS ACT, 1955.	
1. Short title	51
2. Definitions	51
3. Application by landowner	52
4. Application by tenant	52
5. Suo motu proceedings by prescribed authority	52
6. Procedure to be observed by prescribed authority	52
7. Procedure for allotment of surplus area	53
8. Allotment of land to over flow tenants	53
9. Allotment of surplus area to workers and Biswedari ex-tenants	53
10. Issue of certificate	53
11. Delivery of possession	53
12. Conditions of settlement	54
13. Manner of payment of compensation	54
14. Appeal, review and revision	55
FORM I	55-56

THE PEPSU TENANCY AND AGRICULTURAL LANDS ACT, 1955 (Pepsu Act, 13 Of 1955)

An act to amend and consolidate the law, relating to tenancies of agricultural lands and to provide for certain measures of land reforms.

It is hereby enacted in the Sixth Year of the Republic of India as follows:-

CHAPTER 1

Preliminary

1. Short title, and commencement.-(1) This Act may be called the Pepsu Tenancy and Agricultural Lands Act, 1955.
(2) The provisions of 'Section 7 A and Chapter IV, IV-A and IV-B shall save as otherwise provided in those provisions, come into force on the date of commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956], but the remaining provision shall come into force on the sixth day of March, 1955.

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

- (a) 'alottee' means a displace person or a group of such persons in the notification of the Department of Rehabilitation No. 9R, dated the 3rd July, 1949, or in pursuance of any other scheme for allotment of evacuee land to displaced persons which the State Government may, by notification in the Official Gazette, specify for the purpose of this Act, and includes-
 - (i) the legal representatives of such displaced persons; and
 - (ii) in the case of an allotment to a group of displaced person each such person and his legal representatives;
- (b) 'banjar land' means land which has remained uncultivated for a continuous period of not less than years immediately preceding the date on which the question whether such land is banjar or not arises;
- ³[(b) "Collector" has the meaning assigned to it in the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1987), and includes any officer not below the rank of an Assistant to perform all or any of the functions assigned to the Collector under this Act.]
- (c) 'Commissioner' has the meaning assigned to it in the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887), and includes any of the functions assigned to the Commissioner under this Act;
- (d) 'evacuee land' means land which is or which is deemed to be evacuee property under the Administration of Evacuee Property Act, 1950 (XXXI) of 1950;
- (e) 'khanna damad' means a person who having married the daughter of a landowner having no male issue lives along with his wife in the house

¹ Subs. by Pepsu Act No. 15 of 1956, Section 2.

² Sub-section (3), as amended by Pepsu Act No. 27 of 1955 and Pepsu Act No. 9 of 1956, omitted by Pepsu Act no. 15 of 1956, Section 2.

³ Ins. by Punjab Act No. 3 of 1956, Section 2.

of his father-in-law and who according to the custom is treated by him as his son.

(f) 'landowner' has the meaning assigned to it in the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887), and includes and allottee.

[Explanation. - In respect of land mortgaged with possession, the mortgaged shall be deemed to be the landowner.]

(g) the expression 'to cultivate personally' with its grammatical variations and cognate expressions means to cultivate on one's own account-

(i) by one's own labour, or

(ii) by the labour of such of one's relatives, as may be prescribed or

(iii) by servants of hired labour;

(h) 'prescribed' means prescribed by rules made under this Act,

(i) 'standard acre' is a measure of land convertible with reference to the yield from, and the quality of, the soil, into an ordinary acre according to the prescribed scale;

(j) 'State' means the State of Patiala and East Punjab State Union;

(k) 'tenant' has the meaning assigned to it in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887), but does not include a person-

(i) who holds a right of occupancy, or

(ii) who is relative of the tenant within the meaning of sub-clause (2) of clause (g);

(l) 'the President's Act' means the Patiala and East Punjab State Union Tenancy and Agricultural Lands Act, 1953 (President's Act 8 of 1953);

(m) all other words and expressions used herein and not defined but defined in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887) or the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887) shall have the meanings assigned to them in either of those Acts.

3. Permissible limit. -²(1) 'Permissible limit' for the purposes of this Act means thirty standard acres of land and where such thirty standard acres on being converted into ordinary acres exceed eighty acres, such eighty acres.

Provided that in the case of an allottee -

(a) Who has been allotted land exceeding forty standard acres, the permissible limit shall be forty standard acres and where such forty standard acres on being converted into ordinary acres exceed one hundred acres, such one hundred acres; and

(b) Who has been allotted land exceeding thirty standard acres, but not exceeding forty standard acres, the permissible limit shall be equal to the area of land allotted to him]

³ Explanation. - For the purposes of determining to permissible limit of an allottee the provisions of the proviso shall not apply to the heirs and successors of the allottee to whom land is allotted.]

¹ Explanation added by Pepsu Act No. 15 of 1956.

² Sub-section (1), subs by Pepsu Act No. 15 of 1956 of section 4.

³ Explanation added by Punjab Act 16 of 1962, with effect from the 30th Oct, 1956.

THE PEPSU TENANCY AND AGRICULTURAL LANDS (AMENDMENT) ACT, 1997

(PUNJAB ACT NO. 5 OF 1998)

Amendment of Pepsu Act 15 of 1955.

[Received the assent of the Governor of Punjab on the 5th 1998, and was published for general information in *Punjab Gazette (Extraordinary)*, Legislative Supplement of January, 1998.]

AN Act further to amend the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Principal Act, 1955) (hereinafter referred to as the Punjab Act 15 of 1955).

Enacted by the Legislature of the State of Punjab in the eighth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Pepsu Tenancy and Agricultural Lands (Amendment) Act, 1997;

(2) It shall come into force at once.

2. In the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Principal Act, 1955) (hereinafter referred to as the Punjab Act 15 of 1955), the following clause shall be inserted,

“(f) ‘Non-Resident Indian’ means a person who is either permanently or temporarily in India, in either case—

(a) for or on taking up employment outside India;

(b) for carrying on a business of vocation duty;

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India, for an uncertain period.”

3. In the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Principal Act, 1955) (hereinafter referred to as the Punjab Act 15 of 1955), the following clause shall be inserted, after clause (f), the following clause shall be inserted,“(g) ‘Non-Resident Indian’ means a person who is either permanently or temporarily in India, in either case—

(a) for or on taking up employment outside India;

(b) for carrying on a business of vocation duty;

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India, for an uncertain period.”

4. In the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Principal Act, 1955) (hereinafter referred to as the Punjab Act 15 of 1955), the following clause shall be inserted, after clause (g), the following clause shall be inserted,“(h) ‘Non-Resident Indian’ means a person who is either permanently or temporarily in India, in either case—

¹ Clause (f) omitted by Pepsu Act No. 15 of 1956, Section 4.

6. In the Principal Act, in section 32-J, in sub-section (1), after the words "member of the Armed Forces of the Union", words "and Non-Resident Indian" shall be inserted.

(f) 1/4 m (g)

(h)

(i) (j) (k)

(l) (1)

(m) all other words and expressions used herein and not defined but defined in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887) or the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887) shall have the meanings assigned to them in either of those Acts.

3. **Permissible limit.**—²(1) 'Permissible limit' for the purposes of this Act means thirty standard acres of land and where such thirty standard acres on being converted into ordinary acres exceed eighty acres, such eighty acres:

Provided that in the case of an allottee,—

(a) Who has been allotted land exceeding forty standard acres, the permissible limit shall be forty standard acres and where such forty standard acres on being converted acres into ordinary acres exceed one hundred acres, such one hundred acres; and

(b) Who has been allotted land exceeding thirty standard acres, but not exceeding forty standard acres, the permissible limit shall be equal to the area of land allotted to him]

³ **Explanation.**—For the purposes of determining to permissible limit of an allottee the provisions of the proviso shall not apply to the heirs and successors of the allottee to whom land is allotted.]

¹ Explanation added by pepsu Act No. 15 of 1956.

² Sub-section (1), subs by Pepsu Act No. 15 of 1956 of section 4

³ Explanation added by Punjab Act 16 of 1962, with effect from the 30th Oct, 1956.

THE PEPSU TENANCY AND AGRICULTURAL LANDS ACT, 1955

(2) For the purposes of computing the permissible limit under sub-section (1)–

(a) where a person holds some land as a landowner and other land as an allottee both kinds of land shall be included;

(b) land occupied by an occupancy tenant shall not be included in the holding of the landowner but it shall be included in the holding of the occupancy tenant in whom proprietary rights in respect of such land vest under the Pepsu Occupation Tenants (Vesting of Property Rights) Act 1954 (18 of 1954);

(c) where a landowner owns land jointly with other landowners his share of such land as ascertained from the record of right shall be alone be included;

(d) where a landowner died within a period of six months from the commencement of the President's Act the Permissible limit shall be determined with reference to the land which has devolved upon each of his successors-in-interest immediately before the death of the landowner;

(e) any transfer of land made by the landowner after the commencement of the President's Act shall be disregarded;

¹ [(f) * * * * *]

Case Law

Sections 3, 23, 31 and 32—Punjab Land Reforms Act, 1972—Section 23—Transfer of Property Act, 1881—Section 23 and Presidents Act, 1953—On application for grant of proprietary rights to tenants, validity of a gift made by the landowner, which rendered him small landowner, was to be decided—Four times the collector remanded the case to prescribed authority and the gift was held valid and the landowner a small landowner—It was on fifth remand by the Commissioner to the Asst. Collector, Cr. 1 that the gift was held invalid and the application for purchase of tenants' share was allowed—Upheld by the commissioner—Land owners are before F.C. in appeal—By customary law in Punjab to hold a gift valid, it must ordinarily be followed by possession and without undue influence—Possession remained with respondents—Original gift deed has not been produced before any revenue court below—No acceptance by the donee has been brought on record—Without acceptance not a valid gift—As held on AIR 1960—P&H (Punjab & Haryana) 495, if acceptance of gift is not found in pursuance of the gift, the gift was to be held in operative—Findings of the commissioner and Asst. Collector G1 upheld—Revision Petition dismissed; **Gurux Singh and another v. Mastan Singh : 2004(2) Land L.R. (F.C. Punjab) 331**

Sections 3 and 51 A—Displaced Persons (Compensation and Rehabilitation) Act, 1954—Sections 7, 8 and 14—Appellants, allottees of the surplus land of the respondent, have challenged the Full Bench decision of the High Court resulting in their dispossession—This land was allotted to the predecessor-in-interest of the respondent as compensation under the Reh. Act for the lands left in Pakistan—In Pakistan this land had been granted as a gallantry award before partition of the country—Question to be decided is if Section 51-A of the Tenancy Act, as inserted in 1968 with words, "Shall be deemed always to have

¹ Clause (f) omitted by Pepsu Act No. 15 of 1956, Section 4

been inserted" i.e. if the Land in question is exempt from the surplus proceedings—in the present case Land granted to 'D', father of respondent G was as gallantry award which on partition D left behind in Pakistan—For the loss suffered he became entitled to compensation under Reh. Act in terms of Sections 7 and 8—Therefore land in possession of D was different than "such land" as mentioned in Section 51-A of Tenancy Act—Not the gallantry Land and consequently Section 51-A of the Pepsu Tenancy Act can have no application at all—Order rendered by FB of High Court is set aside—Appeal allowed with costs.—**Pohla Singh @ Bola Ram (d) by Lrs. & Ors. v. State of Punjab & Ors. 2005(1) Land L.R. (Supreme Court) 153**

4. **Act to over hide other laws** - Save as otherwise expressly provided in this Act the provisions of in this Act the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force of any instrument having effect by virtue of any such law or any court or other authority.

CHAPTER II

Reservation of Land For Personal Cultivation

5. **Reservation of Land for personal Cultivation**-(1) Subject to the provisions of this section every landowner owing land exceeding thirty standard acres shall be entitled to select for personal cultivation from the land held by him in the State as landowner any parcel of land not exceeding in aggregate area the permissible limit and reserve such and for personal cultivation by intimating his selection into the prescribed form and manner to the collector.

Provided that in making such selection the landowner shall include to the extent of the permissible limit, all land which he held for personal cultivation immediately before the commencement of the President's Act.

CASE LAW

*Sections 5, 5-A, 6, 32-D - Landowner holding land in excess of permissible limits. Land under his personal cultivation also within permissible limits-Landowner failing to exercise right of reservation under Section 5 or 5-A-Collector not competent to exercise power under Section 32-D-Tenant can purchase the land. **Gurmet Singh and anr. v. The State of Punjab and ors. 1980. ALL INDIA LAND LAWS REPORTER 466.**

*Sections 5, 5-A, 7-A, 22 and 32-D-Landowner failing to exercise the right to make reservation-Case would fail under Section 5, 5A and 6-Collector under Section 32-D has no power to select land within the permissible limits of landowner-Tenant cannot be rejected under Section 7-A-Purchase application of tenant need not be kept pending till selection under Section 32-D where there is failure to exercise this right under Section 32-D or 32-BB. **Gurmet Singh and anr. v. The State of Punjab and ors. 1980. ALL INDIA LAND LAWS REPORTER 466.**

(2) The right conferred by this section on a landowner to reserve land for personal cultivation shall cease if it is not exercised.

PUNJAB GOVT. GAZ. (EXTRA), DECEMBER 17, 2013 283
(AGHN 26, 1935 SAKA)

GOVERNMENT OF PUNJAB DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB NOTIFICATION The 17th December, 2013

No. 62-Leg./2013.-The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 29th Day of November, 2013, is hereby published for general information:-

THE PEPSU TENANCY AND AGRICULTURAL LANDS (AMENDMENT) ACT, 2013 (Punjab Act No. 51 of 2013)

AN
ACT

1955.
further to amend the Pepsu Tenancy and Agricultural Lands Act,

BE it enacted by the Legislature of the State of Punjab in the Sixty-fourth Year of the Republic of India, as follows:-

- (1) This Act may be called the Pepsu Tenancy and Agricultural Lands (Amendment) Act, 2013.
- (2) It shall come into force at once.
- In the Pepsu Tenancy and Agricultural Lands Act, 1955, for section 7-B, the following section shall be substituted, namely:-

"7-B. The concession given under sections 7 and 7-A to the land owner, who is a Non-Resident Indian, shall be available only in respect of his ancestral property and the property, which has been purchased by him at least five years before from the date he files the ejectment application."

H.P.S. MAHAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

Short title and commencement

Substitution of section 7-B of Punjab Act 1955.

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- (a) within a period of one year from the commencement of the President's Act, where the landowner is a member of the Armed Forces of the Union, and
- (b) within a period of six months from such commencement, in any other case.

[5A. Reservation of additional land for personal cultivation in certain cases. Any landowner-

- (1) whose permissible limit has been altered under the Pepsu Tenancy and Agricultural Lands (Second Amendments) Act, 1956, or
- (2) who on account of the provisions contained in Sub-section (2) of Section 7A is not entitled to resume reserved land or any party therefore, or
- (3) in the case of an allottee whose allotment has been modified or revised after the commencement of the President's Act,
- shall be entitled-

- (a) in any case where he has reserved land for personal cultivation under Section 5, to reserve additional land for personal cultivation,
- (b) in any case where he was not entitled to reserve land for personal cultivation, to reserve such land for personal cultivation,
- not later than the expiry of six months from the date of commencement of the Act referred to in clause (1) and the provisions of Section 5 shall, so far as may be, apply to reservation of land for personal cultivation under this section as they apply to reservation of land for personal cultivation under that section.]

6. Land reserved for personal cultivation to be notified - (1) The Collector shall in respect of every landowner notify in such form and manner as may be prescribed the particulars of all lands reserved for the personal cultivation of the landowner under Section 5² [or Section 5A, as the case may be].

(2) A copy of every notification issued under sub-section (1) shall, as soon as may be, be served upon the landowner concerned in the prescribed manner.

CHAPTER III

General Rights of Tenancy

7. Termination of tenancy:- (1) No tenancy shall be terminated except in accordance with the provisions of this Act or except of any or the following grounds, namely:-

³(a) * * * *

(b) that the tenant has failed to pay rent within a period of six months after it falls due:

[Provided that no tenant shall be ejected under this clause unless he has been afforded an opportunity to pay the arrears of rent within a further period of six months from the date of the decree or order directing his ejectment and he had failed to pay such arrears during that period.]

(c) that the tenant, not being a widow, ¹a minor, an unmarried woman, a member of the Armed Forces of the Union or a person incapable of

¹ Section 5A inserted by Pepsu Act No. 15 of 1956.

² Clause (a) of sub-section (1) omitted by Pepsu Act No. 15 of 1956, Section 7

³ Clause (a) of sub-section 5(1) omitted by Pepsu Act No. 15 of 1956, Section 7

cultivating land by reason of physical or mental infirmity] has after commencement of the President's Act sublet without the consent in writing of the landowner, the land comprising his tenancy or any part thereof.

(d) that the tenant has, without sufficient cause, failed to cultivate personally such land in the manner and to the extent customary in the locality in which such land is situated;

(e) that the tenant has used such land or any part thereof in a manner which is likely to render the land unfit for the purpose for which it was leased to him.

(f) that the tenant, on demand in writing by the landowner, has refused to execute a *Kabuliya* agreeing to pay rent in respect of his tenancy in accordance with the provisions of sections 9 and 10.

²(2) *

Case Law

Section 7—Punjab Tenancy Act, 1887 Section 4(3) & (4)—Non payment of rent and cost of proceedings—Ejectment of tenant—Arrears of rent made—Non-deposit of Cost of proceedings will not follow the consequences of ejectment—Cost of proceedings are not covered under the arrears of rent as contemplated in 7 of the Act—Ejectment for non-payment of costs cannot be sustained—*Set aside: Chander (Dead) through Lrs. v. State of Haryana : 2002(3) Land L.R. (Pb. & Hy.) 392*

Sections 7 and 8—Tenant was order to pay arrears of rent and costs to save ejectment—Arrears of rent paid and not costs—FC ordered ejectment for not having paid the costs—Tenant has challenged eviction by way of writ petition—Tenant could be ejected for non payment of rent or arrears of rent—By no stretch of imagination costs of the said can be included in the definition of rent—Orders of FC quashed—*Constitution of India—Art.226(2)(2); Sardar Singh v. State of Punjab : 2000(3) Land L.R. (Pb. & Hy.) 28*

7A. Additional groups for termination of tenancy in certain cases:— (1) Subject to the provisions of sub-sections (2) and (3), a tenancy subsisting at the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956 may be terminated on the following grounds in addition to the grounds specified in Section 7 namely:—

(a) that the land comprising the tenancy has been reserved by the landowner for his personal cultivation in accordance with the provisions of Chapter II;

(b) that landowner owns thirty standard acres or less of land and the land falls within his permissible limit;

(i) from any area of land if the area under the personal cultivation of the tenant does not exceeds five standard acres, or

¹ Proviso added to clause (b) of sub sec (1), of Section 7 by Pepsu Act No. 9 of 1956.

² Sub-section (2) omitted by Pepsu Act No. 15 of 1956, Section 7.

³ Section 7-A, inserted by Pepsu Act No. 15 of 1956, Section 8.

3. In the Principal Act, in section 7, in sub-section (1), for the words "No tenancy", the words "No tenancy other than a tenancy of the land owner who is a member of the Armed Forces of the Union or a Non-Resident Indian" shall be substituted.

4. In the Principal Act, in section 7-A, in sub-section (1), in the proviso, for the words "member of the Armed Forces of the Union" the words "member of the Armed Forces of the Union or a Non-Resident Indian" shall be substituted.

5. In the Principal Act, after section 7-A, the following section shall be inserted, namely:—

"For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary) dated the 18th December, 1957, page 2839.
P.C.No. 65 0-85

5. In the Principal Act, after section 7-A, the following section shall be inserted, namely:—

"7-B. The concession given under sections 7 and 7-A to the land owner who is a Non-Resident Indian shall be one time and shall be available only in respect of the land acquired by him before the commencement of the Punjab Tenancy and Agricultural Lands (Amendment) Act, 1957.
k. In the Principal Act, in section 32-1, in sub-section (3), in clause (c), after the words "member of the Armed Forces of the Union", the words "and Non-Resident Indian" shall be inserted.

Section 7A(1) and 47—PEPSU Utilisation of Surplus Area Scheme, 1960-61
Krishan Kumar Kukkar,
Additional Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

result in ignoring the partition or giving no effect to the same.—The members of joint family cannot claim their individual units in surplus proceedings. *Jawan and others v. Mewa Singh and others : 2001(3) Land L.R. (Pb. & Hy.) (DB) 468*

¹ Added by Punjab Act 29 of 1969, Section 2.

(ii) from an area of five standard acres, if the area under the personal cultivation of the tenant exceeds five standard acres.

(2) No tenant, who immediately preceding the commencement of the President's Act has held any land continuously for a period of twelve years or more under the same landlord or his predecessor in title, shall be ejected on the grounds specified in sub-section (1).

(a) from any area of land, if the area under the personal cultivation of the tenant does not exceed fifteen standard acres, or

(b) from an area of fifteen standard acres, if the area under the personal cultivation of the tenant exceeds fifteen standard acres.

Provided that nothing in this sub-section shall apply to the tenant of a landlord who, both, at the commencement of the tenancy and the commencement of the President's Act, was a widow, a minor, an unmarried woman, a member of the Armed Forces of the Union or a person incapable of cultivating land by reason of physical or mental infirmity.

Explanation—In computing the period of twelve years, the period during which any land has been under the same landlord or his predecessor in title by the father, brother or son of the tenant shall be included.

(3) For the purpose of computing under sub-sections (1) and (2) the area of land under the personal cultivation of a tenant, any area of land owned by the tenant and under his personal cultivation shall be included.]

PUNJAB AMENDMENT:

In the proviso to sub-section (1) add the following words between the words "not tenant" and "shall be":

"other than a tenant of a landlord who is a member of the Armed Forces of the Union."

Case Law

Section 7-A(1)(a)(b) & (2) (a)(b), 32, 32-FF and 32 KK—Surplus land—Family partition—Tenant's right to acquire land in his possession—Partition between father and sons is nothing but transfer—Even if valid would not come in way of appellant in acquiring proprietary rights—Further even if not treated as transfer, land owned by Hindu Undivided Family is deemed to be of landlord, would result in ignoring the partition or giving no effect to the same—The members of joint family cannot claim their individual units in surplus proceedings. *Jawan and others v. Mewa Singh and others : 2001(3) Land L.R. (Pb. & Hry.) (DB) 468*

Section 7A(1) and 47—PEPSU Utilisation of Surplus Area Scheme, 1960—Para 6(b)—Surplus area allotted to tenant—Tenant challenges the order of prescribed authority that tenant was ejectable under S. 7A(1) of the PEPUSU Act—Authority further held that landlord had a right to get surplus land allotted to the tenant—Sufficient time in this case was allowed to the tenant to rebut the allegations of the landlord—Tenant did not opt to contest the landlord—Order challenged was passed by prescribed authority after his due satisfaction—Order

²(2) *

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(a) that the land comprising the tenancy has been reserved by the landlord for his personal cultivation in accordance with the provisions of Chapter II.

(b) that landlord owns thirty standard acres or less of land and the land falls within his permissible limit:

Provided that no tenant shall be ejected under this sub-section-

(i) from any area of land if the area under the personal cultivation of the tenant does not exceeds five standard acres, or

¹ Proviso added to clause (b) of sub sec (1), of Section 7 by Pepsu Act No. 9 of 1956.

² Sub-section (2) omitted by Pepsu Act No. 15 of 1956, Section 7.

³ Section 7-A, inserted by Pepsu Act No. 15 of 1956, Section 8.

¹ Added by Punjab Act 29 of 1969, Section 2.

was confirmed by F.C.—S. 47 of the PEPSU Act specifically lays a bar to the challenge of orders of Commissioner and Financial Commissioner in a civil court.—Could be interfered with only under the inherent powers of the that court but only when orders are without jurisdiction.—Patent illegality committed by the first appellate court—Judgment and decree are set aside.—And those of the trial Court are restored. **Phul Chand v. Parbhati : 2000(2) Land L.R. (Ph. & Hry) 143**

18-A. Certain sales of tenancy land not pre-emptible—(1) Notwithstanding anything to the contrary contained in the Punjab Pre-emption Act, 1913, a sale of land comprising the tenancy of a tenant made to him by the landowner shall not be pre-emptible under the Punjab Pre-emption Act, 1913 and no decree of pre-emption passed after the commencement of this Act in respect of any such sale of land shall be executed by any Court.

(2) Where, after the commencement of the President's Act, a tenant, to whom the land comprising his tenancy is sold by the landowner, has been dispossessed of such land by a pre-emptor in execution of a decree for preemption or otherwise, the tenant so dispossessed shall in the manner prescribed have the option either to purchase that land from the pre-emptor on payment of the price paid to the tenant by the pre-emptor or to be restored to his tenancy under the pre-emptor on the same terms and conditions on which it was held by him immediately before the sale, on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of the Pepsu Tenancy and Agricultural Lands (Amendment) Ordinance, 1958.

(3) On receipt of an application under sub-section (2) the Assistant Collector shall, after giving to the parties notice in writing and a reasonable opportunity of being heard, determine the claim summarily, and shall keep a memorandum of evidence and a gist of his final order with brief reasons therefore.

Case Law

Section 8A & 8B—Mortgage—Land—Agricultural Land—Tenant inducted by mortgagee— Normally rights of the mortgagees tenants to continue in possession is co-terminus with the mortgages right to do so—No one can give a better right than he himself had—There are exceptions when it is proved that tenancy was created as an act of prudent management and/or when it was protected by statute—Exception will not apply where terms of mortgage deed expressly prohibit creation of tenancy—Exception is sometime read as being applicable only to agricultural lands/tenancies—Transfer of Property Act, 1882—S. 76(a); **Puran Chand (Dead) through Lrs. v. Kirpal Singh (Dead) : 2001(2) Land L.R. (Supreme Court) 90**

Section 8A—Transfer of Property Act, 1882—S. 114-D—S. 8 of Pepsu Act is for the benefit of the subsequent mortgagee—It cannot apply in this case as there is no subsisting tenancy—On redemption of mortgage no question of restoration of tenancy arises—Tenancy had been created in the name of the father—Could not be inherited by respondents 1 and 2, since on the death of their father they had become his landlords—Matter looked upon this way also, respondent 1 & 2 have no right to continue in possession as tenants; **Puran Chand (D) through L.Rs.**

¹ New sections 8A and 8B inserted by Punjab Act 3 of 1959, section 3.

and others v. Kirpal Singh (D) and others : 2001(3) Land L.R. (Supreme Court) 248

8-B. Certain mortgages to be deemed as tenants the Act :-

(1) Where, after the commencement of the President's Act, land comprising the tenancy of a tenant is mortgaged to him with possession by the landowner and is subsequently redeemed by the landowner, the tenant shall, notwithstanding such redemption or any other law for the time being in force be deemed to be the tenant of the landowner in respect of such land on the same terms and conditions on which it was held by him immediately before the execution of the mortgage had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the manner prescribed on the same terms and conditions on which it was held by him immediately before the execution of the mortgage on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of the Pepsu Tenancy and Agricultural Lands (Amendment) Ordinance, 1958.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in the manner laid down in sub-section (3) of Section 8A]

9. Maximum amount of rent payable:- Notwithstanding any agreement, usage decree or order of a court or any law for the time being force, the maximum rent payable by a tenant in respect of the land leased to him shall not exceed one-third of produce of the land or the value of such produce, as the case may be.

10. Determination of rent :- (1) Subject to the provisions of Section 9, the rent payable by a tenant shall be-

- (a) where the rent is fixed by an agreement in writing, the rent so agreed upon;
 - (b) where there is no such agreement, the payable for the agricultural year immediately preceding the period in respect of which the rent falls to be determined;
 - (c) where it is not practicable to ascertain the rent for the previous agricultural year referred to in clause (b), the rent payable according to the usage of the locality;
 - (d) where the case does not fall under any of the aforesaid clauses a reasonable rent.
- (2) The reasonable rent referred to in clause (b) of sub-section (1) shall be determined by the prescribed authority who in determining such rent shall have regard to the following matters namely:-
- (a) the rental value of any leased for similar purposes in the locality;
 - (b) the income from similar lands in the locality;
 - (c) the prices of foodgrains and other commodities in the locality;
 - (d) such other matters as may be prescribed.

11. Receipt for rent.-(1) Every landowner shall give or cause to be given a receipt for the rent received by him or on his behalf in such form and manner as may be prescribed.

Explanation.- A receipt shall be deemed to have been given within the meaning of this sub-section, if it is handed over to the prescribed authority within seven days of receipt of rent by the landowner or by any person on his behalf.

(2) If any landowner makes default in complying with the provisions of sub-section (1), the prescribed authority may, by order in writing, direct him to pay a penalty not exceeding three times the amount of land revenue payable in respect of the land relating to which the default is made.

12. Prohibition against recovery of excessive rent.-Notwithstanding anything in any agreement, usage, or law for the time being in force, it shall not be lawful for any landowner-

- (a) to recover from a tenant rent in excess of the amount specified in Section 9 or Section 10 as the case may be, or
- (b) to demand from a tenant any cess, rate or tax or service or payment of any description or denomination whatsoever, in addition to the rent lawfully recoverable under this Act.

13. Liability to refund amount unlawfully recovered.- If the prescribed authority, after making such enquiry as it may deem fit, is satisfied that a landowner has recovered any rent, cess, rate or tax or received any service from any tenant in contravention of the provisions of Section 12, the prescribed authority may direct the landowner-

- (a) to pay to the Government as penalty as sum not exceeding ten times the excess amount recovered; and
- (b) to refund to the tenant and excess amount recovered from him; of
- (c) where the landowner has received any service from any tenant to pay to the tenant such sum by way of compensation as the prescribed authority may think fit.

14. Bar on eviction from dwelling house.-(1) If in any Abadi Dehor Guran Deh a tenant is in occupation of a dwelling-house built on a site belonging to the landowner the tenant shall not be ejected from such dwelling-house or the landowner immediately apportioned thereto and necessary for his enjoyment unless,

- (a) the landowner proves that the dwelling-house was not built at the expense of the tenant; and
- (b) such tenant makes default for a period exceeding one year in the payment of rent, if any, which he has been paying for the use and occupation of such house.

Provided that in the case of a tenant under an allottee, this sub-section shall have effect as if for the word 'and' in sub-clause (a) the word 'or' were substituted.

(2) The provisions of this section and next succeeding section shall not apply to a dwelling-house which is situated on any land used for the purpose of agriculture in respect of which the tenancy has been terminated under the provisions of this Act.

Explanation.-In this section and the next succeeding section the expression 'landowner' in relation to evatee land means the Custodian of Evatee Property within the meaning of the Administration of Evatee Property Act, 1950 (XXXI of 1950).

15. Option to tenant to purchase site of dwelling house.-(1) A tenant who is in occupation of a dwelling-house built at his own expense on a site belonging to the landowner shall have the right to purchase the site from the landowner at the price agreed upon in writing between him and the landowner or in the absence of any such agreement at such price as may be determined by the prescribed authority.

(2) A tenant who intends to purchase the site of a dwelling-house in purchase of the provisions of sub-section (1) shall give to the landowner a notice in writing in the prescribed manner of his intention to do so.

(3) Where a landowner has received notice under sub-section (2) he shall within one month of the receipt thereof, communicate in writing to the tenant the price at which he is willing to sell to him the site of the dwelling house.

(4) Where a landowner fails to communicate to the tenant the price in respect of the site of the dwelling-house under sub-section (3) or where the tenant is not willing to pay the price demanded by the landowner for such site, the tenant may make an application in the prescribed period for determination of the market value of the site.

(5) On receipt of an application under sub-section (4), the prescribed authority shall, after giving the parties an opportunity of being heard, determine, by an order in writing the market value of the site.

(6) An order made under sub-section (5) shall be served upon the landowner and the tenant and if the tenant deposits with the prescribed authority the market value of the site of the dwelling-house as determined under that sub-section within six months, from the date of the service of the order upon him the site shall be deemed to have been transferred to the tenant, and the amount so deposited shall be paid to the landowner.

(7) The prescribed authority shall, on payment of prescribed fee, issue to the tenant a certificate containing the prescribed particulars in respect of tenant under sub-section (6) and notwithstanding anything contained in the Indian Registration Act, 1908, (XVI of 1908), no such certificate shall require to be registered under that Act.

(8) Where a tenant fails to deposit the market value of the site of the dwelling-house under sub-section (6), he shall be deemed to have relinquished his right to purchase such site.

16. Right of tenant to make improvements on land.-(1) A tenant may at any time apply in writing to the landowner for permission to make improvements at his own expense on the land leased to him.

(2) If, within one month of the receipt of such application the landowner fails or refuses, without reasonable cause, to grant the required permission to the tenant, the tenant may make an application within the prescribed period to the prescribed authority for the grant of such permission.

(3) Where an application is made to the prescribed authority under sub-section (2) the prescribed authority after giving the parties an opportunity of being heard, may make such order thereon as it may deem fit.

(4) Where a tenant makes any improvements on the land leased to him, in accordance with an order made by the prescribed authority under sub-section (3), the tenant shall be deemed to have made such improvements with the permission of the landowner.

(5) In this section, the expression 'tenant' includes a sub-tenant.

17. Compensation for improvements.—(1) A tenant who has made any improvements at his own expense on the land leased to him in accordance with the provisions of Section 16, shall, if his tenancy is terminated under the provisions of this Act, be entitled to receive compensation for such improvements before he can be ejected from such land.

(2) The compensation payable to a tenant under sub-section (1), shall be determined by the prescribed authority in accordance with the value of such improvements at the date of termination of the tenancy and in determining such compensation the prescribed authority shall have regard to the following matters, namely:—

- a) the amount by which the value of land has increased by reason of the improvements;
- (b) the condition of the improvements at the date of the determination of the value thereof and the probable duration of their effect;
- (c) the labour and capital involved in the making of the improvements; and
- (d) the reduction or remission of rent, if any or other advantage secured by the tenant in consideration of the improvements made by him.

18. Devolution to tenancy on death of tenant.—(1) If a tenant dies during the term of his tenancy subject to the provisions of sub-section (2), devolve—

- (a) on his lineal male descendants, in the male line of descent if any;
- (b) failing such descendants, on his widow, if any;
- Provided that such widow shall cease to enjoy the tenancy right if she remarries or abandons the land or is ejected therefrom in accordance with the provisions of this Act;
- (c) failing such descendants and widow, or in case there is a widow if and when she ceases to enjoy the tenancy rights under the proviso to clause (b), on a *khana damad*, if any
- (2) No person shall be entitled to succeed to tenancy under sub-section (1), unless he is willing to cultivate personally the land comprising the tenancy.

Case Law

Section 18(1)—Haryana Ceiling of Land Holdings Act, 1972 Section 8(1)—Punjab Security of Land Tenancy Act, 1953—Order by collector—Without notice to party—Nullity—Challengeable in civil court—Even if the statute expressly bars the jurisdiction of the civil court to entertain a suit to challenge the validity or legality of the order passed by such a tribunal, *State of Haryana v. Smt. Punni : 2005(1) Land L.R. (Pb. & Hry.) 112*

Section 18(1)—Haryana Ceiling on Land Holdings Act, 1972—Section 8(1)—Punjab Security of Land Tenures Act, 1953—Permissible area—Land in excess of—Protection against—Held, That the transfers made prior to 30.7.1958 of land

in excess of permissible area under the Act or Pepsu Tenancy and Agricultural Lands Act, 1955 were protected and the said sale deeds could not be ignored while determining surplus area as the same was protected by Section 8(1) of Haryana Ceiling on Land Holdings Act, 1972, *State of Haryana v. Smt. Punni : 2005(1) Land L.R. (Pb. & Hry.) 112*

19. Rights and privileges of tenants under other laws not affected.—Nothing contained in this Chapter shall be construed to limit or prejudice the rights and privileges of any tenant under any other law for the time being in force or any usage, or arising from any contract, grant, decree or order of a court otherwise howsoever.

CHAPTER IV

Acquisition of Proprietary Rights by Tenants

[20 Definition of tenant.—In this Chapter, the expression 'tenant' means a tenant as defined in clause (k) of Section 2, who is not liable to be ejected—

- (a) under clauses (a) and (b) of sub-section (1) of Section 7A; or
- (b) under clauses (a) and (b) of sub-section (2) or Section 7A.

Provided that this definition shall not apply to a tenant who is to be allotted by the State Government land under the proviso to sub-section (1) of Section 7A.]

21. Application of this Chapter to evacuee lands.—The provisions of this Chapter shall apply to evacuee lands with effect from such date as the State Government may, by notification in the official Gazette, specify.

22. Acquisition of proprietary rights by tenants.—(1) Subject to the other provisions contained in this Act, a tenant shall be entitled to acquire from his landowner in respect of the land comprising his tenancy the right, title and interest of the landowner in such land (hereinafter referred to as the 'proprietary rights') in manner and subject to conditions hereinafter provided.

(2) Every tenant intending to acquire proprietary rights shall make an application in writing to the prescribed authority in the prescribed manner containing the following particulars, namely:—

- (a) the area and location of the land in respect of which the application is made;
- (b) the name of the landowner from whom proprietary rights are to be acquired;
- (c) such other particulars as may be prescribed.

(3) The right conferred upon a tenant to acquire proprietary right in respect of any land under this Section may if such tenant has sublet the land be exercised by the sub-tenant to the exclusion of the tenant.

Case Law

Section 22—Proprietary rights—Application for grant of proprietary rights filed by appellants (tenants) allowed. Vide orders dated 6.3.1965, when 'B' the landlord himself appeared before the prescribed authority and conceded the claim of appellants—Plea of partition by the sons of 'B' the land owner—Held—Property was not Hindu Co-parcenary property or ancestral property in the hands of 'B',

¹ Subs. by Pepsu Act No. 15 of 1956.

his sons could not get same by way of partition—Plea was based on oral partition between 'B' and his sons dated 10.12.57 and sanction of mutation on 19.12.57—Plea of partition, followed by mutation would not confer any right—Partition once disowned by the land owner, orally as well as in writing, in proceedings of surplus area—Sons cannot claim the land, as belonging to them, *Jawan and others v. Mewa Singh and others* : 2001(3) Land L.R. (Pb. & Hy.) (DB) 468

23. **Determine on of compensation for acquisition of proprietary rights.**

(1) On receipt of an application under Section 22, the prescribed authority after satisfying itself that the applicant is entitled to acquire proprietary rights in any land under this Chapter shall determine the compensation payable in respect in accordance with the principles set out in Section 26.

(2) On determination of such compensation the prescribed authority shall by order in writing require the applicant to deposit the first instalment of the compensation as prescribed under Section 27 in Government treasury or a sub-treasury or with the prescribed authority and to produce before it a receipt for the same within a period of fifteen days from the date of the service of such order.

Provided that the prescribed authority may, on sufficient cause being shown, extend the period specified in this sub-section, so however that the aggregate period does not exceed one month.

(3) Where the first instalment of compensation has been deposited in accordance with the provisions of sub-section (2), the prescribed authority shall issue to the applicant a certificate in the prescribed form declaring him to be the landowner in respect of the land specified in the certificate.

(4) On and from the date of the issue of a certificate under sub-section (3) the proprietary rights to the landowner in the land specified in the certificate shall be deemed to have been extinguished and such proprietary rights shall vest in the applicant free from all encumbrances and as from such date the applicant shall cease to be liable to pay any rent in respect of such land to the landowner.

Provided that--

(a) the amount of compensation payable by the applicant shall be a first charge on such land.

(b) the amount of any encumbrance existing on such land on the date of the issue of the certificate shall be a valid charge on the amount of compensation payable by the applicant under this Act.

(5) Every certificate issued under sub-section (3) shall be conclusive evidence of the acquisition by the applicant of proprietary rights in the land specified therein and notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908), no such certificate shall be required to be registered under that Act.

24. Tenant may abandon his intention to acquire proprietary rights.—(1) Any person who is entitled to acquire proprietary rights in respect of any land under this Chapter may at any time after the amount of the first instalment of compensation is deposited under sub-section (2), of Section 23 but before a certificate is issued to him under sub-section (3) of that section make a declaration in writing in the prescribed manner before the prescribed authority that he has abandoned his intention to acquire proprietary rights in such land.

(2) Where any declaration is made under sub-section (1), the amount of first instalment of compensation, deposited by the tenant under sub-section (2) of Section 23 shall be refunded to him.

25. Forfeiture of right to acquire proprietary rights.—If any person upon whom the right to acquire proprietary rights is conferred under this Chapter fails to comply with any order made under sub-section (2) of Section 23 he shall forfeit his right to acquire such proprietary right.

26. Principles of compensation for acquisition of proprietary rights.—(1) Where any person has acquired proprietary rights in respect of any land under this Chapter he shall be liable to pay to the landowner from whom such rights have been acquired compensation at the rate of ninety times the land revenue (including rates and cesses) payable for such land two hundred rupees per acre, whichever is less.

(2) The compensation payable under this section shall be determined by the prescribed authority who shall specify the person to whom the compensation shall be paid.

(3) If there is any dispute as to the person or persons who are entitled to the payment of compensation, the prescribed authority shall decide the dispute and if the prescribed authority finds that more than one person are entitled to compensation it shall apportion the amount thereof among such persons.

27. Compensation payable in instalments.—(1) The compensation payable under Section 26 may be paid in such annual instalments not exceeding six as may be prescribed.

(2) Every instalment of compensation shall be deposited in a Government treasury or a sub-treasury or paid to such authority as may be prescribed within fifteen days of the date of its becoming due and a receipt therefor shall be furnished to the prescribed authority.

(3) Where any instalment of compensation is not deposited in a Government treasury or a sub-treasury or paid the prescribed authority within the period of fifteen days specified in sub-section (2), the prescribed authority shall of its own motion or on the application of the landowner concerned, take steps within one month from the expiry of the said period of fifteen days for the recovery of such instalment in the manner provided in Section 49.

(4) Interest at the rate of two and a half percent per annum shall be payable on the amount of any instalment which is not paid within time from the date when the instalment become due.

28. Payment of compensation to landowner.—Subject to the provisions of sub-section (2) of the Section 24, the prescribed authority shall, as soon as may be, after the amount of any instalment of compensation has been deposited under Section 23 or Section 27 pay the same to the person entitled to it on his executing a receipt for the same.

29. Recovery of land revenue, etc., from tenants and their right to set off the same against rent.—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the amount of land revenue (including surcharge, special charge, additional surcharge or special assessment) or of acreage rates, or of betterment charges, or of any other tax (including rates and cesses), payable under any law for the time being in force in respect of any land,

the proprietary rights of which a person under this Chapter is entitled to acquire, may be recovered from such person.

(2) Where any amount has been recovered from a person under sub-section (1), such person shall be entitled to set off such amount against the rent payable in respect of such land.

29-A. Right of landowners in certain cases to enforce acquisition of Proprietary rights by tenants.—(1) Where a person entitled under this Chapter to acquire proprietary rights in respect of the land comprising his tenancy fails to make an application under sub-section (2) of Section 22, within a period of one year from the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1962, an application containing the prescribed authority in the prescribed manner by the landowner requiring such person to acquire proprietary rights in such land in accordance with the provisions of this Chapter.

(2) The applications under sub-section (1) shall be disposed of in accordance with the provisions of this Chapter as if it were an application made by a person under sub-section (2) of Section 22 and the provisions of Section 25 shall apply to the order made under sub-section (2) of Section 23 in respect of such application.

30. Proprietary rights to devolve on heir.—If any tenant or sub-tenant dies before exercising his right to acquire proprietary rights in respect of any land under this Chapter such right shall, on his death, devolve upon his lineal male descendants in the male line of descent, if any, and shall be exercisable by them in the like manner and subject to the like conditions as the like conditions as the tenant or the sub-tenant, as the case may be.

31. Bar of transfer of ownership rights.—(1) No land is respect of which proprietary rights have been acquired under this Chapter shall be transferred by sale, mortgage, gift or otherwise during a period of six years from the date of a certificate issued under sub-section (3) of Section 23.

¹Provided that nothing in this sub-section shall apply to the land mortgaged with the State Government or the Punjab State Co-operative Land Mortgage Banks, Limited established under the Punjab Co-operative Land Mortgage Bank Act, 1957.

(2) Any transfer of land made in contravention of sub-section (1) shall be void and no registering authority shall register any document evidencing such transfer under the Indian Registration Act, 1908 (XVI of 1908).

32. Certain transfers not affect rights of tenants under this Chapter.—(1) No transfer of land made by a landowner after the commencement of the President's Act shall affect the right of any person to acquire proprietary rights in such land under this Chapter.

(2) If any question arises whether any transfer of land does or does not affect the right of any person to acquire proprietary rights in such land, the question shall be referred to the prescribed authority for its decision.

Case Law

Section 32.—Power of financial Commissioner—Allottee-tenants not impleaded as respondents in the appeal—Collector as well as Commissioner dismissing the

¹ Proviso added by Punjab Act 16 of 1962, Section 3.

appeal and revision on this ground. Financial Commissioner held not competent to order impleading of the tenants-allottees as respondent in the case.—As the discretion exercise by the lower authority is not permitting the impleading after period of limitation was judicial exercise of authority. *Lakhwant Singh and anr. v. The F.C. Pb. And ors. 1980 ALL INDIA LAND LAWS REPORTER 11.*

CHAPTER IV-A

Ceiling on Land and Acquisition and Disposal of Surplus Area

32-A. Ceiling on land.—(1) Notwithstanding anything to the contrary in any law, custom, usage or agreement, no person shall be entitled to own or hold as landowner or tenant land under this personal cultivation within the State which exceeds in the aggregate the permissible limits.

(2) For the purposes of computing the permissible limit under sub-section (1), the provisions of clauses (d) and (e) of sub-section (2) of Section 3 shall not apply.

Case Law

Punjab Land Reforms Act, 1972—Section 15(2)—Punjab Land Reforms Rules 1973—Rule 17(3)—Surplus area—Allotment of—Surplus area which is not included in permissible area, vests in State of Government free from all encumbrances created by any person—Right of ownership is conferred upon when he makes first instalment entire payment—Sale certificate is issued only on full fledged payment. *Lachman Singh and others v. Kishan Singh (Dead) Through LRs : 2005(1) Land L.R. (Pb. & Hry.) 376*

32-B. Returns by persons having land in excess of the ceiling.—Any person, who on the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, owns or holds as landowner or tenant land under his personal cultivation, which in the aggregate exceeds the permissible limits, shall, within a period of 24 months from the commencement of the Pepsu Tenancy and Agricultural Lands (Amendment) Ordinance, 1958, furnish to the Collector a return giving the particulars of all his land in the prescribed form and manner and stating therein his selection of the parcel or parcels of land not exceeding in the aggregate the permissible limit which he desires to retain and the lands in respect of which he claims exemption from the ceiling under the provisions of this Chapter.

³Provided that such person shall state in the return any transfer other disposition of land made him after the 21st August, 1956, and where a person has furnished a return before the commencement of the Pepsu Tenancy and Agricultural Land (Amendment) Ordinance, 1958, he shall within the aforesaid intimate to the Collector any such transfer or other disposition of land made by him.]

¹ Chapter IV-A, inserted by Pepsu Act No. 15 of 1956.

² Subs. for the words "six months from the commencement of the Pepsu Tenancy and Agricultural Lands (Amendment) Ordinance 1957", by Punjab Act No. 3 of 1959, Section 4. The Punjab Ordinance No. 7 of 1958 came into force on the 30th July, 1958.

³ Added by Punjab Act No. 3 of 1959, Section 4.

CASE LAW

Section 32-B.—Surplus Area determined in 1961. Landowner dying in August 1964. Consolidation taking place between 1961-63. Application made by the sons landowner in 1963 seeking review of the declaring surplus area. Surplus area not utilized till the death of the landowner. Surplus area should have been determined afresh and due benefit given on account of the snootage resulting on account of consolidation proceedings. **Badan Singh & ors. vs. The State of Haryana & ors. 1979 ALL INDIA LAND LAWS REPORTER 145.**

Section 32-B, 32-BB, 32-C and 32-D.—Power of Collector to select permissible area of landowner under Section 32-D can be exercised only in a case covered by provisions of Sections 32-B, 32-BB or 32-C. **Gurmeet Singh v. State of Punjab and ors. 1980 Land Laws Reporter 466.**

132-BB. Declarations supported by affidavits to be furnished by certain landowners and tenants.—(1) Every landowner of tenant required to furnish a return under Section 32-B, whose land is situated in more than one Patwar circle, shall furnish to the Collector within a period of one month from the commencement of the Pepsu Tenancy and Agricultural Lands (Amendment) Ordinance, 1958, a declaration supported by an affidavit in respect of the lands owned or held by him in such form and manner as may be prescribed.

(2) If a landowner or tenant fails to furnish the declaration supported by an affidavit as required by sub-section (1), the prescribed authority not below the rank of Collector may, by order, direct that the whole or part of the land of such landowner or tenant, in excess of ten standard acres, to be specified by such authority shall be deemed to be the surplus area of such landowner or tenant, and thereupon such area shall be included by the Collector as the surplus area of such landowner or tenant in the statement to be prepared in respect of him under Section 32-D.

Provided that nothing herein shall affect—

- (a) the lands of such landowner or tenant which have been exempted under Section 32-K, or
 - (b) the right of such person to any compensation in respect of such surplus area to which he may be entitled under this Act.
- Provided further that no such order shall be made without giving the person concerned an opportunity of being heard.

(3) Where a landowner or tenant, who is required to furnish a declaration under sub-section (1), fails so to do, the Collector may in respect of him obtain the information required to be shown in the declaration through such agency as he may deem fit.]

32-C. Collection of information through other agency.—If any person owing or holding under his personal cultivation land in excess of the permissible limit fails to furnish the return and intimate his selection within the period prescribed under Section 32-B, the Collector may obtain the information required to be shown in the return through such agency as he may [deem fit and, subject to the provisions of sub-section (2) of Section 32-B, select] the parcel or parcels of

land which such person is entitled to retain under the provisions of this Act as also the surplus area of such person.

32-D. Submission of Statement to Government.—(1) On the basis of the information given in the return under Section 32-B, [or the declaration furnished under sub-section (1) of Section 32-BB which shall be duly verified through such agency as may be prescribed or the information obtained by the Collector under sub-section (3) of Section 32-BB or] Section 32-C, the Collector shall prepare a draft statement in the manner prescribed showing, among other particulars, the total area of land owned or held by such a person, the specific parcels of land which the landowner may retain by way of his permissible limit or exemption from ceiling and also the surplus area.

(2) The draft statement shall include the advice of the Pepsu Land Commission appointed under Section 32-P regarding the exemption from ceiling if claimed by the landowner and be published in the office of the Collector and a copy thereof shall be served upon the person or persons concerned in the form and manner prescribed. Any objection received within thirty days of the service shall be duly considered by the Collector and after affording the objector an opportunity of being heard order shall be passed on the objection.

(3) Any person aggrieved by an order of the Collector under sub-section (2) may, within thirty days of the holder, prefer an appeal to the State Government or an officer authorised by the State Government in this behalf.

(4) Without prejudice to any action under sub-section (3), the State Government may of its own motion call for any record relating to the draft statement at any time and after affording the person concerned an opportunity of being heard, pass such order as it may deem fit.

(5) Any order of the State Government under sub-section (3) or sub-section (4) or of the Collector. Subject to the decision of the State Government under those sub-section shall be final.

(6) The draft statement shall than be made final in terms or the order if the Collector or the State Government, as the case may be, or in terms of the advice of the Pepsu Land Commission regarding exemption from the ceiling claimed by the landowner (if any), and published it in any court or before any authority.

(7) The final statement shall then be submitted by the Collector to the State Government as soon as may be and a copy thereof may on demand be given to the landowner of the tenant concerned.

Case Law

Sections 32D(2) and 51-A.—Surplus Area—Possession taken and allotment made—Redetermination—Cancellation of allotment—No notice issued—Challenged—No rights were accrued to state on the appointed day i.e. 24.1.1971—Held—Order of re-determination of surplus area and nullifying the allotment, without hearing the petitioners is clear violation of rule of audi altram partem—Impugned orders are declared illegal and quashed—Matter remanded to Commissioner, to determine permissible and surplus area, after giving hearing opportunity to petitioners. **Ram Gopal v. State of Punjab : 2002(1) Land L.R. (Pb & Hry.) (DB) 567**

¹ Subs. for the words "which shall be duly verified through such agency as may be prescribed or the information obtained by the Collector under " by the Punjab Act No. 3 of 1959, Section 7.

¹ New Section 32-B inserted by Punjab Act No. 3 of 1959, Section 5.

² Subs. for the words "deem fit and select" by Punjab Act No. 3 of 1959, Section 6.

Sections 32D(2), 51A and 47—Punjab Land Reforms Act, Section 21.—Surplus area—Redetermination of—Civil Court jurisdiction barred—As per S.47(1) of Pepsu Act no civil Court shall have jurisdiction to settle, decide or deal with any matter which is under that Act required to be settled, decided or dealt with by the Financial Commissioner, the Collector or the prescribed authority—S. 21 (g) of the Punjab Act lays down that validity of any proceedings or any order taken or made under the Act shall not be called in question before any Court or any other authority; *Ram Gopal v. State of Punjab* : 2002(1) Land L.R. (Pb. & Hry.) (DB) 567

Section 32-D and 32-K—Surplus Area—Determination of—Land determined under Pepsu Act, but possession not taken from landlord—In meanwhile, Punjab Land Reforms Act, 1973 came into force—Surplus area has to be redetermined under the new act—Petition dismissed; *Sunder Singh v. State of Punjab and Others* : 2004(3) Land L.R. (Pb. & Hry.) 97

Section 32 D 32 (MM)—Notice issued by the special collector for separation of surplus area—Notice sent to the petitioner—Process server making the report that the landowner is away for getting his eyes operated—Landowner held to be not served in accordance with law—Producing under Section 32 D of the Act held to be bad on account of non-service; *Abey Ram v. State of Haryana* 1981 ALL INDIA LAND LAWS REPORTER 546.

Notice to donee before declaration of surplus area is necessary—Surplus area determined without giving notice to the donee—Determination of surplus area set aside; *Arjan Singh and ors. v. The State of Punjab and ors.* 1982 Land Laws Reporter 43.

Section 32-D (3) (4)—Appeal filed against the decision of Collector under sub-section (3)—Order would be deemed to be passed by the State Government even if passed by an officer authorised by the State Government itself—Finally attaches to order passed under sub section (3)—No further revision before the Financial Commissioner competent; *Sukhdarshan Singh Vs. The State of Punjab and ors.* 179 ALL INDIA LANDS LAWS REPORTER 179 (FULL BENCH).

Section 32-D (4) (5)—Appeal not filed under sub-section 3—Revisional power can be exercised by the State Government or its delegates—Finally would attach to the revisional orders or passed; *Sukhdarshan Singh v. The State of Punjab and ors.* 1979 ALL INDIA LAND LAWS REPORTER 179 (FULL BENCH).

Section 32-D—Notification issued under clause 1 of the notification dated 23rd December 1963 would be redundant as the Financial Commissioner has no revisional jurisdiction against an order passed in an appeal by the commissioner—Clause (2) of the notification would stand intact—Revisional power would be exercised where no appeal has been preferred; *Sukhdarshan Singh Vs. The State of Punjab and ors.* 1979 ALL INDIA LAND LAW REPORTER 179 (FULL BENCH).

[32-DD. Future tenancies in surplus area and certain judgments etc, to be ignored.—Notwithstanding anything contained in this Act, for the purposes of determining the surplus area of any person—

¹ New Section 32DD inserted by Punjab Act No. 16 of 1962, with effect from the 30th October, 1956.

- (a) a tenancy created after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act 1956, in an area of land which could have been declared as the surplus area of such person; and
- (b) any judgment, decree or order of a court or other authority obtained after the commencement of that Act and having the effect of diminishing the area of such person which could have shall be ignored.]

CASE LAW

Section 32DD—Surplus area declared in 1960—Mutation sanctioned in favour of State in 1975—Sons and grandsons of the landowner claiming the land on the basis of a decree passed in 1971—Cannot avail the benefit of the decree of order having the effect of diminishing the area of a person has to be ignored; *Chhota Singh v. State of Punjab* 1981 ALL INDIA LAND LAWS REPORTER 20.

32-E. Vesting of surplus area in the State Government.—Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, and subject to the provisions of Chapter IV, [after the date] on which the final statement in respect of a landowner or tenant published in the Official Gazette, then—

- (a) in the case of the surplus area of a landowner, or in the case of the surplus area of a tenant which is not included within the permissible limit of the landowner² [such area shall, on the date on which possession thereof is taken by or on behalf of the State Government, be deemed to have been acquired] by the State Government for a public purpose and all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time being in force) of all persons in such land shall be extinguished, and such rights title and interest shall vest in the State Government free from encumbrances created by any person; and

- (b) in the case of the surplus area of a tenant which is included within the permissible limits of the landowner, the right and interest of the tenant in such area shall stand terminated:

Provided that, for the purposes of clause (a), where any land falling within the surplus area is mortgaged with possession. Only the mortgage rights shall vest in the State Government.

Case Law

Section 32-(E) and 32 (FF)—Death of the Landowner before the utilisation of the surplus area—Surplus area to be determined afresh; *Badan Singh v. The State of Haryana and ors.* 1979 ALL INDIA LAND LAWS REPORTER 465.

¹ Subs. for the words "as from the date" by Punjab Act 16 of 1962, with effect from the 30th October, 1956.

² Subs. for words "such area shall be deemed to have acquired" by Punjab Act 16 of 1962, with effect from the 30th October, 1956.

132-F. Power to take possession of surplus area.—(1) The Collector may, by order in writing, at any time after the date on which the final statement in respect of a landowner or tenant is published in the Official Gazette, direct the landowner or the tenant or any other person in possession thereof within ten days of the services of the order on him to such person as may be specified in the order.

(2) If the landowner or the tenant or any other person in possession of the surplus area refuses or fails without reasonable cause to comply with the order made under sub-section (1), the Collector may take possession of the surplus area and may for that purpose use such force as may be necessary.]

2132-FF. Certain transfers not to affect the surplus area.—Save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance or up to 30th July, 1958 by a landless person, or a small landowner, not being on relation as prescribed of the person making the transfer or disposition of land, for consideration up to and area which with or without the area owned or held by him does not in the aggregate exceed the permissible limit, no transfer or other disposition of land effected after 21st August, 1956, shall affect the right of the State Government under this Act to the surplus area to which it would be entitled but for such transfer or disposition :

Provided that any person who has received any advantage under such transfer or disposition of land shall be bound to restore it, or to make compensation, or it to the person from whom he received it.]

CASE LAW

Section 32 FF.—Evidence Act 1872—Section 35—Gift made by father in favour of his 4 sons—Entries made in Roznamcha by Holdings Patwari in 30.8.1952—Father has served a registered gift deed on 8.10.1956 in their favour, revenue authorities sanctioned mutation on 23.11.1956 in discharge of official duties—it cannot be said that entries made in Roznamcha—Such entries are admissible in evidence under Section 35—Evidence Act—Contention that gift transfer is hit by Section 32 FF—Not tenable—Rejected; **State of Punjab v. Bakshish Singh & Ors. 2003(3) Land L.R. (P&H) 491**

Sections 32J and 32E.—Punjab Land Reforms Act, 1972—S.28 Surplus Land under Pepsu Act—Determination of—Allotment—State Govt. did not take possession—Rights title and interest in land remains with original land owner as land did not vest in the State Govt.—Allotment made by State Govt. in regard of the said land is illegal and is of no legal consequence; **Harnek Singh v. Financial Commissioner, Appeals, Punjab & Ors. : 2002(1) (Supreme Court) 253.**

¹ Subs. by Punjab Act 27 of 1962, Section 3.

² New Section 32FF inserted by Punjab Act 3 of 1959, Section 8.

* Section 13 of Punjab Act No 16 of 1962, reads as follows :

13. Validation. Notwithstanding anything contained in this Act or in any other law for the time being in force or in any judgment, decree or order of any court or other authority, where the surplus area in respect of the principal Act, has been determined under that Act any time before the commencement of this Act by any authority competent to determine such area, whether by ignoring the partition of any such land under Section 32-FF or otherwise such determination shall be valid and shall be deemed always to have been valid and shall not be questioned on the ground that the descendants of the landowner constituting with him the Hindu undivided family were landowner in their right in respect of their shares in land on the ground that the partition had been ignored."

Section 32-FF.—Gift made by the landowner before 30th July 1958—Is not a transfer or disposition of land—Would not effect the surplus area of the person making the gift. **Smt. Shakuntla v. The State of Haryana 1979 ALL INDIA LAND LAWS REPORTER 77 (SUPREME COURT).**

32-G. Principles for payment of compensation.—(1) Where any land is acquired under Section 32E, there shall be paid compensation which shall be determined by the Collector or any other officer in the manner and in accordance with the principles hereinafter set out, that is to say--

- (a) in respect of land other than banjar land--
 - (i) for the first twenty-five standard acres of land, twelve times the fair rent; and
 - (ii) for the next twenty-five standard acres of land, nine times the fair rent; and
 - (iii) for the remaining land, ninety times the land revenue (including rates and cesses) payable for such land or two hundred rupees per acre, whichever is less.

Provided that the compensation under this clause shall in no case be less than ninety times the land revenue (including rates and cesses) payable for the land or two hundred rupees per acre, whichever is less.

[Provided further that where the land exceeds fifty standard acres, it shall, for the purposes of computing compensation under this clause, be allocated to sub. clauses (i), (ii) and (iii) in such manner as may be prescribed.]

- (b) in respect of banjar land, forty-five times the land revenue payable in respect of an equal area of any barani land in the village concerned or where there is no such land in the village, in the nearest village, which is assessed to land revenue at the lowest rate of one hundred rupees per acre, whichever is less.

Explanation.—In this sub-section 'fair rent' means fair rent as determined by the Pepsu Land Commission appointed under Section 32P.

- (2) The Collector or the officer authorised by the State Government shall prepare a compensation statement in the form and manner prescribed & shall give notice to all persons known to have any interest in the land for which compensation is to be paid, to appear personally or by duly authorised agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of service of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to be apportioned among the persons having interest in the land.

²(2A) Where in the surplus area of any person mortgage rights have vested in the State Government, the compensation payable to the mortgagee shall be the mortgage money due to the mortgage, or the compensation payable under this Act, whichever is less.]

¹ Proviso added by Punjab Act 27 of 1962 Section 4.

² Sub Section (2A) inserted by Punjab Act No. 16 of 1962, Section 6.

(3) In apportioning compensation between a landowner and a tenant not more than twenty times the land revenue shall be awarded to the tenant.

1[(4) Where on the land there is any building, structure, tube-well or crop, the owner thereof shall, in addition to the compensation payable in respect of land, be entitled to be paid by the State Government compensation therefore which shall be equivalent to three-fourth of the market value of such building, structure, tube-well or crop, as the case may be, and which shall be determined:-

- (a) in the case of crop, by the Collector; and
- (b) in other cases, by the Pepsu Land Commission or, in respect of the surplus area declared under sub-section (12) of Section 32K by the Board referred to in sub-section (6) of that Section:

Provided that an option in writing may be given by the Collector to the owner to remove such building, structure, tube-well or crop within the period prescribed, and if such building, structure tube-well or crop, as the case may be, is removed by the owner within the prescribed or within such further period as the Collector may extend for the purpose on compensation shall be paid to the owner in respect thereof.

Provided further that the cost incurred in raising the crop shall be the market value of the crop.]

32-H. Payment of compensation.-(1) The compensation payable by the State Government shall be given in cash or in bonds or partly in cash and partly in bonds, as may be prescribed.

(2) Compensation in respect of land other than banjar land shall, in the first instance, be paid at the rate of ninety times the land revenue (including rates and cases) payable for such land or two hundred rupees per acre, whichever is less and the balance, if any shall be payable after the fair rent has been determined in accordance with the provisions of this Act.

32-J. Disposal of Surplus Area.-(1) The surplus Area acquired under Section 32E shall be at the disposal of the State Government.

(2) The State Government may, by notification in the Official Gazette, frame scheme ² for utilizing the surplus area by allotment to tenants willing to cultivate land personally or to landowners or tenants owing or holding not exceeding five standard acres in order to make their holdings equal to five standard acres, and to landless agricultural workers or for the development or co-operative farms or seed farms or efficient management of land.

- (a) tenants who are liable to ejectment and entitled to allotment of alternative land under Section 7A; and
- (b) landowners or tenants owning or holding land not exceeding five standard acres in order to make their holdings equal to five standard acres, and landless agricultural workers.

(4) The terms and conditions, on which the lands, the surplus area to be allotted, shall include Payment of the prescribed amount for the land in a lumpsum or in annual instalment spread over twenty years.

¹ Subs by Punjab Act 27 of 1962, Section 4.

² For utilization of surplus area Scheme see Punjab Government Revenue Department notification No. 4771-A.P.I. (II), 60/2415, dated the 4th August, 1960.

Explanation. - The said amount shall be prescribed by the State Government having regard to the condition that the aggregate amount payable to the State Government by the persons to whom land is allotted under the scheme shall not exceed the aggregate amount of compensation payable by the State Government for surplus area which is acquired.

(5) The State Government may, by notification in the Official Gazette, add to amend very or revoke any scheme made under this section.

Punjab Amendment :- In Clause (a) of sub-section (1), after the words, letter and figure "under Section 7-A" the words "including tenants of landowners who are members of the Armed Forces of the Union" shall be inserted.

Case Law

Punjab Land Reforms Act, 1972--Surplus Area--Surplus area proceedings under the Pepsu Act had not been finalised and were pending on the date when Punjab Land Reforms Act, 1972 came into force--Held, surplus area in the hands of the land owner had to be declared only under the provisions of Punjab Land Reforms Act, 1972 and not under the Pepsu Act - Allowing appeal Collector's orders set aside.; **Barsala Singh v. State of Punjab and others : 2003(3) Land L.R. (Pb. & Hry.) 381**

32-K. Exemptions from ceiling on land.-(1) The provisions of Section 32A shall not apply to-

- (i) orchards where they constitute reasonably compact areas;
- (ii) specialized farms engaged in cattle breeding, dairying or wool raising;
- (iii) sugarcane farms operated by sugar factories;
- (iv) efficiently managed farms which consist of compact blocks on which heavy investment or permanent structural improvements have been made and whose breakup is likely to lead to a fall in production,
- (v) lands belonging to registered co-operative societies formed for the purpose of co-operative farming provided the land owned by an individual member of the society does not exceed the permissible limit; and

(iv) where a landowner gives an undertaking in writing to the Collector that he shall, within a period of two years from the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, plant an orchard in any area of his land not exceeding ten standard acres. Such area of land.

(2) Where a landowner has, by an undertaking given to the Collector, retained any area of land with him for planting an orchard and fails to plant the orchard within a period of two years referred to in clause (iv) of sub-section (1), the land so retained by him shall on the expiry of that period vest in the State Government under Section 32E and compensation therefore shall be payable in accordance with the provisions of this Chapter.

³[(3) Notwithstanding contained in this Act.-

¹ Inserted by Punjab Act 29 of 1969, Section 3.

² Subs (3) to (14) added Act No. 27 of 1962, Sec. 5, (With effect from 30th Oct. 1956.

- (a) the exemption specified in clause (vi) sub-section (1) shall not be allowed unless the orchard planted within the period specified therein is found to be an orchard also at the time of granting the exemption;
- (b) the exemption specified in clauses (i), (ii), (iii), (iv) and (v) of Section (1) shall not be allowed unless the orchards constituting reasonably compact areas or the specialized farms engaged in cattle breeding dairying or wool raising or the sugarcane farms operated by sugar factories or the efficiently managed farms or the lands belonging to registered co-operative societies, as the case may be, are found to be also at the time of granting the exemptions;
- (c) the exemption specified in clause (iv) of sub-section (1) shall not be allowed unless the efficiently managed farm satisfies the conditions hereinafter appearing in the succeeding sub-sections.
- (4) For determining whether a farm should be expected under clause (iv) of sub-section (1), the Pepsu Land Commission shall award to the farm, in respect of the harvest of Rabi and Kharif for the year 1956, marks in the following manner :-
 - (a) the total number of marks shall be one thousand and the various features, including the feature relating to yield of crops per standard acre, for which marks are to be awarded and the maximum marks to be awarded for each feature shall be such as may be prescribed;
 - (b) the marks shall be awarded for each future subject of the maximum marks prescribed for the future;
 - (c) in awarding marks for the future relating to yield to crops, the Pepsu Land Commission shall apply such standards of yield of crops per standard acre as may be prescribed;
 - (d) the award of marks shall be relation to the yield to each prescribed crop in a particular harvest;
 - (e) areas under crops for which standard yield are not prescribed or area as on which prescribed crops are sown but such areas are less than five per centum of the total area of the farm, shall be ignored for the purposes of awarding marks;
 - (f) for awarding marks to a firm for the future relating to yield of crops, the average of the marks awarded for the yield if each prescribed crop shall be regarded as the marks awarded to that farm for the feature relating to yield of crops;
 - (g) for awarding marks in respect of each harvest, the evaluation of land under each crop for converting standard acres shall, notwithstanding anything to the contrary in Section 32NN, be made in relation to the class of land in existence at the time of the such harvest;
 - (h) in awarding marks, the Pepsu Land Commission shall give due allowance for any loss in the yield of crops to any natural calamity or circumstances beyond the control of the landowner;
 - (i) where any area of the farm has not been brought under any crop any ground, other than the normal rotation of crops or circumstances, beyond the Control of the person concerned, the Pepsu Land Commission may deduct from the total number of marks awarded to

- the farm such number of marks not exceeding one hundred as it may deem fit;
- (j) no farm which is awarded less than eighty per centum of the total number of marks prescribed in respect of all features shall be exempted under clause (ix) of sub-section (1).
- (5) Every person, to whom any exemption is granted under clause (iv) of sub-section (1), shall furnish from time to time to such authority and in such form and manner such periodical information relating to the produce of different crops, the programme regarding different agricultural operations such as use of improved seeds and fertilizers, adoption of plant protection measures like spraying and maintenance of standards of yield of crops as may be prescribed.
- (6) Every exemption of a farm under clause (iv) of sub-section (1) shall be liable to be reviewed by a Board consisting of two Commissioners of the Division concerned as Chairman and two other persons having special knowledge or practical experience of land or agricultural problems as members, to be appointed by the State Government by notification, who may be paid such allowances as may be prescribed.
- (7) The first review under sub-section (6) shall be made by the Board after the expiry of at least three years from the date on which exemption to farm is granted and thereafter, periodical reviews shall be made by the Board so that a period of not less than three years shall intervene between two consecutive reviews.
- (8) In reviewing exemptions of efficiently managed farms, the Board shall take into account the periodical information furnished in respect of the farm under sub-section (5) and shall, as far as may be, be guided by the same provisions of this Act and the rules made thereunder as are applicable to the grant of exemptions under this section and marks shall be awarded by the Board for all the harvests during the period between the grant of exemptions and the review or the period between to consecutive reviews, as the case may be.
- (9) If, during the course of any review, the Board finds that any area of land included in a farm exempted under clause (iv) of sub-section (1) is inherited by an heir of the landowner and such area of land, with the lands, if any, already owned by him, does not exceed in the aggregate the permissible limit, the Board shall advise the State Government that such area of land should be excluded from the farm exempted under clause (iv) of sub-section (1), and where such advice to be tendered by the Board, the Board shall if such, their so desires, exclude such area of land for the purpose of reviewing the exemption relating to the farm from the date of inheritance.
- (10) The Board shall after each review advise State Government whether the exemption of any farm should continue or should be withdrawn or whether any area of land included in the farm should be excluded therefrom under sub-section (9).
- (11) The advice tendered by the Board under sub-section (10) shall be binding on the State Government.
- (12) Where an exemption in respect of any farm is withdrawn by the State Government on the advice of the Board-
 - (a) if a landowner is alive, the whole of the area of such farm, and
 - (b) if the landowner is dead, the whole of the area of such farm, except to the extent of the land which is inherited by the heirs of the landowner

and which, with the lands, if any, already owned by such heirs, does not exceed in the aggregate the permissible limit, shall be declared to be the surplus area:

Provided that such declaration shall not be made without giving an opportunity of being heard to the landowner or the heirs, at the case may be.

(13) In declaring the surplus area under this section, of provisions of this Act shall, as far as may be apply.

(14) Any rules made under Section 52 for giving effect to the provisions of this section may be made retrospectively from the 30th Oct. 1956.

32-KK. Land owned by Hindu undivided family to be deemed land of one landowner. Notwithstanding anything contained in this Act or in any other law for the time being in force -

(a) where, immediately before the commencement of this Act, a landowner and his descendants constitute a Hindu undivided family, the land owned by such family shall, for the purposes of this Act, be deemed to be the land of that land owner and no descendant shall, as member of such family, be entitled to claim that in respect of his share of such land he is landowner in his own right; and

(b) a partition of land owned by a Hindu undivided family referred to in clause (a) shall be deemed to be a disposition of land for the purposes of Section 32-FF.

Explanation. - In this section, the expression "descendant" includes an "adopted son".

32-L. Ceiling on future acquisition of land.-(1) Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, no person whether as landowner or tenant, shall acquire or possess by transfer, exchange, lease, agreement or settlement any land which with or without the land already owned or held by him, shall in the aggregate exceed the permissible limit.

(2) Any transfer, exchange, lease, agree me to or settlement made in contravention of the provisions of sub-section (1), shall be null and void.

32-M. Ceiling on future acquisition by inheritance.-(1) If, after the commencement, of the Pepsu Tenancy and Agriculture Land (Second Amendment) Act, 1956, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir any land [or if after such commencement and subject to the provisions of Section 32-FF any person acquires in any other manner, except as specified in Section 32-L, any land] which with or without the lands already or held by him, exceeds in the aggregate the permissible limit, then he shall within the period prescribed furnish to the Collector a return in the manner specified in Section 32B giving the particulars of all lands and selecting the land he desires to retain ³and if the land

¹ New Section 32-KK inserted by the Punjab Act No. 16 of 1962, Section 7, with the 30th October, 1956.

² Inserted by Punjab Act No. 16 of 1962, Section 8.

³ Added by Punjab Act No. 3 of 1956, Section 1(1).

of such person in situated in more than one *Partwar* circle, he shall also furnish a declaration required by such Section (1) of Section 32-BB.

¹(1-A) If such person fails to furnish the declaration, the provisions of sub-sections (2) and (3) of Section 32-BB shall apply.]

(2) If he fails to furnish the return and select his land within the prescribed, then the Collector may obtain the information and select the land for him in the manner specified in Section 32 C.

(3) The Collector shall then submit a statement to the State Government in the manner specified in Section 32D and issue a notification in the Official Gazette as required by that section.

(4) The excess land shall then vest in the State Government in accordance with the provisions of Section 32E and compensation therefore, shall be payable in accordance with the provisions of this Chapter.

32-MM. Power to separate share of landowners in joint lands.-(1) Where a landowner owns land jointly with other landowners and his share of such land or part thereof, as ascertained from the record of rights, has been or is to be declared as surplus area, the officer competent to declare such area, or where such area has been declared the officer competent to utilize it, may on his own motion, after summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or part thereof in the land owned by him jointly with other landowners.

(2) Where, after the declaration of the surplus area of any person and before the utilization thereof, his land has been subjected to the process of consolidation, the officers referred to in sub-section (1) shall be competent to separate the surplus area of such person out of the area of land obtained by him after consolidation].

CASE LAW

Section 32 (mm).-Consolidation of Holdings taking place after declaration of surplus area-Landowner entitled to select his possible area afresh. **Badan Singh v. The State of Haryana and ors. 1979 ALL INDIA LAND LAWS REPORTER 456.**

32-N. Definition of public purpose 'surplus area' and 'land.'-In this Chapter -

(1) 'Public purpose' includes--

- (i) a purpose connected with the allotment of land to-
 - (a) tenants who are liable to ejectment and entitled to allotment of alternative land under Section 7A, or
 - (b) landowners or tenants owing or holding land not exceeding five standard acres in order to make their holdings equal to five standard acres, and landless agricultural workers.
- (ii) development of co-operative farms or seed farms; and
- (iii) efficient management of land.

¹ Inserted by Punjab Act No. 3 of 1956, Section 9(1).

² New Section 32 MM inserted by Punjab Act No. 16 of 1962, Section 9.

¹“(1-A) ‘small landowner’ means a landowner whose entire land in the State does not exceed the permissible limit.”

(2) ‘surplus area’ means the area in excess of the permissible limit ²and includes the area which is deemed to be surplus area under sub-section (2) of Section 32-BB; and

(3) ‘land’ includes banjar land save as otherwise provided.

[32-NN. Removal of certain doubts.]—For the removal of doubts it is hereby declared that for evaluating the land of any person at any time under this Act, the land owned by him immediately before the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, or land acquired by him after such commencement by inheritance or by bequest or gift from a person to whom he is an heir, shall always be evaluated for converting into standard acres as if the evaluated was being made on the date of such commencement, and that the land acquired by him after such commencement in any other manner shall always be evaluated for converting into standard acres as if the evaluation was being made on the date of such acquisition.]

CHAPTER IV-B : Constitution of Land Commission

32-P. Constitution of Land Commission and functions thereof.—(1) The State Government shall establish a commission to be called the Pepsu Land Commission consisting of—

- (a) a Chairman being a person who is or has been a Judge of the High Court.
- (b) two members to be nominated by the State Government having special knowledge or practical experience of land agricultural problems.
- (2) The chairman and members of the Commission shall hold office for a term of three years.
- (3) The Chairman and members shall be entitled to receive such remuneration for the performance of their duties under this section as may be prescribed.
- (4) Subject to the provisions of this Act and in accordance with any rules which may be made by the State Government in this behalf, it shall be the duty of the Commission to—

- (a) determine fair rents for the purposes of Section 32G.
- (b) determine the market value of any building, ³structure or tube-well under sub-section (4) of Section 32G.
- (c) advise the State Government with regard to exemption of lands from the ceiling in accordance with the provisions of Section 32K.
- (5) The advice given by the Pepsu Land Commission under clause (c) of sub-section (4) shall be binding on the State Government and notwithstanding anything in Section 32D, no final statement shall, in a case in which exemption is claimed under Section 32K, be published unless such advice is included therein.

¹ Inserted by Punjab Act No. 3 of 1959, Section 10(9).

² Inserted by Punjab Act No. 3 of 1959, Section 10(2).

³ Subs. for the words “structure, tube-well or crop” by Pb Act No. 17 of 1961, Sec. 6.

(6) In determining the fair rents, the Pepsu Land Commission shall, in accordance with such principles as may be prescribed, classify soils where necessary.

(7) The fair rent shall not exceed the value of one-fifth of the gross produce of land determined in accordance with such principles as may be prescribed.

(8) If there is a difference of opinion among the member of the Commission on any matter, the opinion of the majority shall prevail, and the decision of advice of the Commission shall be expressed in terms of the views of the majority.

(9) For the purposes of performing its duties, the Pepsu Land Commission shall be empowered to make such enquiries as may be necessary and in doing so shall have the powers of a civil court specified in Section 41.

CHAPTER V CHAPTER VI Miscellaneous

39. Appeals and revision.—(1) Any person aggrieved by any decision or order of the ²prescribed authority or the Assistant Collector to the First Grade) may, within thirty days from the date of the decision or order excluding the time spent in obtaining the copies of such decision or order, prefer an appeal to the Collector in such form and manner as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by any decision or order of the Collector, (whether acting as prescribed authority or not, not being a decision or order made in an appeal under sub-section (1) may, within thirty days from the date of the decision or order excluding the time spent in obtaining the copies of such decision or order, prefer an appeal to the Commissioner in such form and manner as may be prescribed.

Provided that the Commissioner may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the prescribed authority or ³the Assistant Collector of the First Grade Collector) or the Commissioner as is provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

40. Correction of clerical errors.—Clerical or arithmetical mistakes in any order passed by any officer or authority under this Act takes in any or errors arising therein from any accidental slip or omission may at any time be corrected by such officer or authority either of his own motion or and application received in this behalf from any of the parties.

41. Officers holding enquiries to have powers of civil courts.—Any officer or authority holding an enquiry or hearing an appeal or a revision under this Act shall have the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), relating to—

¹ Chapter V containing Sections 33, 34, 35, 36, 37 and 38 omitted by Pepsu Act No. 15 of 1956.

² Subs. for the words “prescribed authority” by Punjab Act 16 of 1961, Section 11.

³ Subs. for the words “the collector” by Act ibid.

- (a) Proof of facts by affidavits;
- (b) enforcing attendance of any person and his examination on oath;
- (c) Production of documents;
- (d) issue of commission;

and every such officer or authority shall be deemed to be a civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1868 (Act V of 1898).

42. Penalty for making false statement.— If during the course of any proceedings under this Act, any person makes a declaration or a statement or furnishes any information which is false which he knows or has reason to believe to be false or which he does not believe to be true, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

43. Summary eviction and fine.—(1) Any person who is in wrongful or unauthorized possession of any land—

- (a) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act, or
- (b) to the use and occupation of which he is not entitled under the provisions of this Act,

may, after summary enquiry, be ejected by Collector, who may also impose on such person a penalty not exceeding five hundred rupees.

(2) The Collector may direct that the whole or any part of the penalty imposed under sub-section (1) shall be paid to the person who has sustained any loss or damage by the wrongful or unauthorized possession of the land.

Case Law

Section 43.—Limitation for application under Section 43.—No limitation provided Proceedings are of a summary nature. *Nagina Singh & anr. v. Gurdeep Singh 1980 ALL INDIA LAND LAWS REPORTER 498.*

Sections 43 and 47.—Order for restoration of possession to persons wrongly dispossessed.—Possession to be restored.—Question of title of other side not relevant.—Order of restoration of possession under Section 43 of the Pepsu Tenancy and Agricultural Lands Act, 1955 does not operate as res judicate.—Does not bar a civil suit. *Nagina Singh and anr. v. Gurdeep Singh 1980 ALL INDIA LAND LAWS REPORTER 498.*

Section 43.—Application by tenant seeking proprietary rights in the property.—Property transferred by the landowner during the pendency of the application.—Transferee is entitled to become party to the proceedings. *Saraswati Sanskrit Vidyalay Trust and Management Society v. F.C. Pb. and ors. 1979 ALL INDIA LAND LAWS REPORTER 26.*

Section 43.—Indian Limitation Act, 1908, Section 28.—Indian Limitation on Act, 1973 Section 27.—Punjab Tenancy Act, 1187, Section 50.—tenant disposed from the land.—Suit for Possession.—Period of limitation.—Application to be filed within a period of one year from the date of dispossession.—Article 137 of the Indian Limitation Act not applicable Proceedings governed by the Statute under which the relief is sought.—General Principles not applicable.

44. Certain officers to be Public servants.—Every officer acting under or in pursuance of the provisions of this Act or any rules made thereunder shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Act XLV of 1869).

45. Procedure.—In all enquiries and proceedings under this Act, the Collector and any other officer shall have such powers and follow such procedure as may be prescribed.

46. Court-fees.—Notwithstanding anything contained in the Court-fees Act, 1870 (VII of 1870), every application, appeal or other proceeding under this Act shall bear a court-free stamp such value as may be prescribed.

47. Bar of jurisdiction.—(1) No civil Court shall have jurisdiction to settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Collector or the prescribed authority.

(2) No order of the Financial Commissioner, the Commissioner, the Collector or the prescribed authority made under or in pursuance of this Act shall be called in question in any court.

Case Law

Section 47.—Punjab Land Reforms Act, 1972.—Suit land declared surplus on 22.2.1961.—Appeal filed by land owner was dismissed on 29.5.62.—Land owner died.—Suit is filed by the sons of land owner into claim to be major on the surplus land during their possession of surplus land and thus, advance a claim for one unit each.—Contested by defendants.—Preliminary objection is that according S. 40 of Pepsu Act, as well as S. 20 of Reforms Act, civil court had no jurisdiction to entertain the suit.—No notice under C.P.C. S. 80 was served on the State hence suit not maintainable.—Suit dismissed by Trial Court, appeal dismissed by Lower Court.—Here is regular second appeal.—Pure findings of fact by courts below cannot be interfered with by the High Court. *Tek Singh v. Punjab Government and others : 2002(2) Land L.R. (Pb. & Hry.) 128*

48. Protection of action taken under this Act.—No suit, prosecution or other legal proceeding shall lie against any person in respect of any person in respect of any thing which is in good faith done or intended to be done under or in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provisions contained in this Act or any rules made thereunder.

49. Mode of recovery of compensation and penalty.—The amount of any compensation or other sum payable under this Act and the amount of any penalty imposed under this Act may be recovered as an arrear of land revenue.

50. Delegation.—The State Government may, by notification in the Official Gazette, direct that the powers exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the State Government.

¹[51. Exemption of certain lands. - ²(1) The provisions of this Act shall not apply to-

- (a) leads owned by or vested in the State Government otherwise than under the provisions of this Act;
- (b) lands vested in the Central Government which have not been transferred to an allottee either on permanent or quasi-permanent basis;
- (c) lands belonging to any religious or charitable institution but not to a *Mahant, Mortmain* or manager thereof;
- (d) lands granted to any member of the Armed Forces of the Union for gallantry;
- (e) private lands leased by the Government;
- (f) land belonging to or vested in a Panchayat or a local authority;
- (g) nazool lands transferred by the State Government to co-operative societies formed by persons belonging to Scheduled Castes;
- (h) lands to which the ³Pepsu Bhoodan Yagna Act, 1955 (25) of 1955) applies.

Explanation.-For the purposes of clause [c], religious or charitable institution means-

- [i] a temple,
- [ii] a gurdwara,
- [iii] any other religious place of a public nature,
- [iv] a wakf as defined in clause (1) of Section 3 of the Muslim Wakfs Act, 1954 (Parliament) Act 29 of 1954], or
- [v] any other institution of public nature the object of which is relief to the poor, education, medical relief or the advancement of any other object of general public utility including religious teaching or worship

Which the State Government may by notification in the Official Gazette, specify.]

⁴[(2) The provisions of Section 7, Section 7A and Chapter IV shall not apply to lands leased out by the Punjab State Co-operative Land Mortgage Bank Limited established under the Punjab Co-operative Land Mortgage Banks Act, 1957.]

Haryana Amendment.-

After sub-section (2), the following sub-section shall be, and shall be always deemed to have been added:-

(3) The provisions of Section 22 as and Chapter IV-A, shall not apply to any land granted for gallantry at any time before the 26th day of January, 1950, to any member of the armed force, whether maintained by the Central Government or by any Indian State, so long as such land or any portion thereof, as the case may

be, has not passed from the original grantee into more than three successive hands by inheritance or bequest, and is held by the grantee of any of such land:

Provided that where such land or portion, as the case may be, has passed into more than three such lands and the person holding such land or portion, immediately before the commencement of the Pepsu Tenancy and Agricultural lands (Haryana Amendment) Act, 1967, is a person the whom it has passed by inheritance or bequest, the exemption, under this sub-section shall apply to such land or portion, as the case may be, during the life-time of such person.¹¹

Punjab Amendment : After Section 51, the following section shall be and shall be deemed always to have been inserted, namely :-

"51-A. Exemption of lands granted for gallantry before 26th January 1950.- Notwithstanding anything contained in this Act, where any land is granted for gallantry at any time before the 26th day of January, 1950, to any member of the armed forces, whether maintained by the Central Government or by any Indian State, then, so long as such land or any portion thereof, as the case may be, has not passed from the original grantee into more than three successive hands by inheritance or bequest and is held by the grantee or any of such hands, such land or portion, as the case may be, shall not taken into account in computing the surplus area under this Act, nor shall any tenant of such land or portion have the right to purchase it under Section 22.

Provided that where such land or portion has passed into more than three such hands and the person holding such land or portion, immediately before the 3rd of August, 1967, is a person to whom it has passed by inheritance or bequest, the exemption under this section shall apply to such land or portion thereof, as the case may be during the life-time of such person."

52. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the appointment and powers of prescribed authorities and the areas within which they may exercise their jurisdiction.
- (b) the form in which and the period within which any application may be made under this Act;
- (c) the form and manner of holding enquiries under this Act;
- (d) the form and manner in which a receipt for payment of rent may be given;
- (e) the form of any statement to be furnished under this Act and the particulars to be included therein;
- (f) the manner in which land or personal cultivation may be reserved under this Act;
- (g) the instalments in which any compensation may be paid under this Act;
- (h) the manner of service of any order or notice under this Act;
- (i) the form in which any certificate may be issued under this Act;

¹ Section 51 substituted by Pepsu Act 15 of 1956.

² Existing Section 51 re-numbered as sub-section (1) by Punjab Act No. 16 of 1962.

³ Repealed and replaced by the Punjab Bhudan Yagna Act 1958 (Punjab Act No. 45 of 1956), see Punjab Act No. 23 of 1957.

⁴ Added by Punjab Act 61 of 1962, Section 12.

¹ Inserted by Haryana Act 13 of 1967, Section 2.

- (j) the powers of the Collector and other authorities and the procedure to be followed by them in the conduct of enquiries;
- (k) the fees to be paid in respect of any application or other proceeding under this Act;
- (l) any other matter which is to be or may be prescribed under this Act.

53. Repeal and saving- (1) The Patiala and East Punjab States Union Tenancy and Agricultural Lands Act, 1953 (President's Act 8 of 1953, any and the PEPSU Agricultural Tenants (Temporary Protection and Disability) Act, 1954 (22 of 1954), are hereby repealed:

Provided that, notwithstanding the repeal of the President's Act 8 of 1953, anything done or any action taken in the exercise of any power conferred or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act was in force on the day on which such thing was done or action was taken.

(2) Any proceeding relating to the ejectment of a tenant on the ground of personal cultivation of the acquisition by a tenant of proprietary rights in the land comprising his tenancy, postponed by the PEPSU Agricultural Tenants (Temporary Protection and Disability) Act, 1954 (22 of 1954), shall 'in so far as it is not inconsistent with the provisions of this Act as amended by the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, be disposed of in accordance with such provisions.]

THE PEPSU TENANCY AND AGRICULTURAL LANDS RULES, 1958.

PART 1-Preliminary

1. Short title and commencement. - (1) These rules may be called the Pepsu Tenancy and Agricultural Lands Rules, 1958.

(2) They shall come into force at once.

¹Provided that rules 30, 31 and 31-A shall be deemed to have come into force on the 30th October, 1956].

2. Definition. - In these rules, unless the context otherwise requires, -

- (a) 'Act' means the Pepsu Tenancy and Agricultural Lands Commission Act, 1955 (Act No. 13 of 1955);
- (b) 'Commission' means the Pepsu Land Commission established under sub-section (1) of Section 32-P of the Act,
- (c) 'From' means a from appended to these rules,
- (d) 'Schedule' means a schedule appended to these rules,

¹3. Appointment, powers and jurisdiction of prescribed authorities. - (1) Every Assistant Collector of the First Grade, shall, within his jurisdiction, be the prescribed authority for the purposes of any provision of the Act and shall exercise all the powers vested in the Prescribed authority under any such provision:

Provided that for the purposes of ¹Chapter IV, of the Act, any person specially appointed by notification by the State Government from time to time for any area specified in such notification shall also be the prescribed authority for that area:

Provided further, that for the purposes of sub-section (2) of Section 32-B of the Act, the prescribed authority shall be -

- (a) if the lands owned or held by a landowner or tenant are situated in Patwar Circles comprised in one district, the Collector of that district, and
- (b) if the lands owned or held by a landowner or tenant are situated in Patwar Circles comprised in more than one district, the Collector of the district in whose jurisdiction, the largest area of such lands is situate.

(2) Where there are more officers than one in any area, the Collector of the district shall have the power to distribute the work amongst them.]

4. Prescribed relatives for personal cultivation. - For the purposes of sub-clause (ii) of clause (g) of Section 2 of the Act the relatives prescribed shall be the landowner's mother, father, wife, husband, son, grandson, daughter, granddaughter, brother, nephew, uncle, brother-in-law, maternal uncle, son of brother-in-law or of maternal uncle.

¹Added by Punjab Government notification No. G.S.R. 76/Pep. A. 13/52S. 52/Land. (2)/63, dated the 28th March, 1963. This proviso shall be deemed always to have been added.

²Subs by Punjab Government notification No. 9624-ARI (II)-60/4252/dated the 16th December, 1960.

³Subs for the words "Tehsildar and a Naib Tehsildar" by Punjab Government notification No. 6527-ARI (II)-51/1300, dated the 19 September, 1961.

⁴Subs for the words "Section 17" by Punjab Government notification No. 9614-ARI (II)-60/4309, dated the 16th December, 1960.

5. *Conversion of ordinary acres into standard acres.* - An equivalent, in standard acres, of one ordinary acre of any class of land in any tahsil shall be determined by dividing by 100, the valuation shown in schedule A for such class of land in the said tahsil.

¹Provided the valuation shall be -

- (a) in the case of Banjar Qadim land, one half of the value of the class previously described in the records and in the absence of any specific class being stated, one half of the value of the lowest *barani* land;
 - (b) in the case of Banjar Jadid land, seven-eighth of the value of the relevant class of land as previously entered in the records or in the absence of specified class in the records, the lowest *barani* land; and
 - (c) in the case of cultivated *thur* land subject to waterlogging, one eighth of the value of the class of land shown in the records or in the absence of any class, of the lowest *barani* land.]
- Explanation.* - For the purpose of determining the class of any land, the entry in the latest *Jamabandi* relating to such land shall be conclusive.

PART-II - Reservation of Land

1. *Intimation of Reservation.* - (1) The reservation of land under Section 5 of the Act, shall be made by the landowner, in Form I, which shall, in duplicate, either be delivered by him personally or sent by registered post (acknowledgement due) to the Collector of the district in which his land is situate.

Provided that where the land of a landowner is situated in more than one district, the reservation may be intimated to any one of Collectors in whose district the land is situate.

(2) The Collector shall issue a receipt to the landowner as soon as Form I, in duplicate, is received by him.

(3) In every case of intimation, under the proviso to sub-rule (1), the Collector receiving the intimation shall inform the Collectors of other district in which the land of the landowner is situated about the particulars of reservation.

7. *Reservation by widows, minors, etc.* - (1) The reservation under Section 5 of the Act may be made -

- (a) in the case of widow, by the widow or by any or all the collaterals of her husband;
- (b) in the case of a minor, by the guardian;
- (c) in the case of a member of the Armed Forces of the Union, by any person duly authorised by such member.

(2) Where under clause (a) sub-rule (1) the reservation is made by the collaterals or by the widow as well as the collaterals and the Collector finds that there is a difference of opinion in respect of the nature of the area to be reserved, the Collector shall reserve such area as is acceptable to the majority.

Provided that if it is not possible to secure the agreement of the majority, the Collector shall reserve such area to the extent of the permissible limit as he may think fit having regard to the interests of the persons interested in the reservation.

¹ Inserted by Punjab Government notification No. 8309-AR-I(II)-59/1565, dated the 14th April, 1959.

8. *Procedure for dealing with reservation forms.* - The Collector shall, after satisfying himself as to the correctness of the particulars mentioned in Form I, issue a notification in Form II and forward copies thereof to every Tahsildar concerned for affixing one copy at a conspicuous place in every estate in which the land is situate and for delivering another copy to the landowner either personally or by registered post.

Provided that the Tahsildar shall cause to be made in the *Roznamacha* of the Patwari concerned a copy of Form I and of the notification and the Patwari shall furnish copies of the same to the tenant or tenants concerned free of cost.

PART III - Payment of Rent, Purchase of Site of Dwelling-house, etc. by Tenants

Receipt for Rent. - The receipt for rent to be given to the tenant under Section 11(2) of the Act shall be in form III.

10. *Notice for the Purchase of a site of a dwelling-house.* - A tenant intending to purchase to purchase the site of a dwelling-house under sub-section (1) of Section 15 of the Act shall intimate his intention to do so by a notice in writing delivered to the landowner personally or through registered post (acknowledgement due.)

11. *Application for Purchase of site.* - An application under sub-section (4) of Section 15 of the Act shall be made by a tenant in Form IV, within a period of three months of the date which the period specified in sub-section (3) of Section 15, expires.

12. *Form of Certificate and fee therefore.* - The prescribed authority shall issue to the tenant certificate required sub-section (7) of Section 15 of the Act in Form V on a general stamp paper of the value of one rupee to be furnished by the tenant. A copy of such certificate shall be forwarded by the prescribed authority to the landowner and a copy thereof shall also be retained by that authority on record.

13. *Period for application to make improvement.* - An application under sub-section [2] of Section 16 of the Act shall be made by the tenant to the prescribed authority within a period of three months of the date on which the period specified to that section expires.

PART IV - Acquisition of Proprietary Rights and Payment of Compensation therefor, by Tenants

14. *Application for acquisition of proprietary rights.* - A tenant intending to acquire proprietary rights under Chapter IV of the Act shall make an application in Form VI and such application shall be presented by him to the prescribed authority personally or through his recognised agent.

15. *Form of Certificate* - (1) A certificate to be given by the prescribed authority under Sub Section (1) of Section 23 of the Act shall be in Form VI-A and shall be issued to the tenant or general stamp paper of the value of one rupee to be furnished by him.

(2) The prescribed authority shall prepare three extra copies of such certificate, one to be sent to the landowner, and the third to be sent to the landowner, and the third to be sent to the Patwari concerned who shall make mutation entries in accordance with the certificate which shall, for purpose of attestation of the mutation and charging of fees, be treated as if were a decree of a revenue court.

16. Declaration under Section 24 of the Act. - A declaration sub-section [1] of Section 24 of the Act shall be in Form VII and shall be presented by a tenant personally to the prescribed authority.

17. Annual instalments for payment of compensation. - [1] The compensation payable under Section 26 of the Act shall, if it is not paid voluntarily by the tenant in lump sum, be paid, -

- [a] where it does not exceed two hundred rupees, in two annual instalment;
 - [b] where it succeeds five hundred rupees, but does not exceed five hundred rupees, in four annual instalments;
 - [c] where it succeeds five hundred rupees but does not exceed seven hundred and fifty rupees, in three annual instalment;
 - [d] where it succeeds seven hundred and fifty rupees, but does not exceed one thousand rupees, in five annual instalments; and
 - [e] where it succeeds one thousand rupees, in six annual instalments.
- (2) Ordinarily all instalments referred to in sub-rule (1) shall be equal in amount up to a rupee, the balance, if any being payable with the last instalment.

18. Contents of award - [1] Every award of compensation made under Chapter IV of the Act shall contain the following particulars: -

- [a] full description of the land;
- [b] total amount of compensation payable;
- [c] amount of each instalment fixed and the date by which it is to be paid;
- [d] names of the persons entitled to receive compensation and the share due each one of them;
- [e] names of the tenants by whom compensation is payable with a description of the share payable by each;
- [f] full description of the shares of the tenants acquiring proprietary rights in the land.

(2) Every landowner and tenant interested in the award shall be furnished the prescribed authority with a copy of the award free of cost.

19-A. Application for vesting of proprietary rights upon tenant. - (1) An application by the landowner under sub-section (1) of Section 29-A, reducing the tenant to acquire proprietary rights in the land comprising his tenancy, shall be presented by him personally or through his recognised agent.

(2) The prescribed authority, on receipt of the application under sub-rule (1), shall obtain such other particulars it is may deem fit for the proper disposal of the application from the tenant or such other source as it may deem fit.]

PART V - Returns of Land in excess of Ceiling and

Acquisition and Disposal of Surplus Area by Government

19. Form of return to be furnished by persons having land an excess of the ceiling and manner of furnishing thereof - (1) Every landowner or tenant required to furnish of return under Section 32-B of the Act shall furnish it, in

¹ Inserted by Punjab Government notification No. G.S.R. 76/Peep. A. 13/55/S. 52/Lmd. (2)/53, dated the 28th March, 1963.

duplicate, in Form VII-A or Form VII-B, as the case may be, to the Collector of the district in which his land is situate, personally or by registered post (acknowledgement due).

Provided that where the land of any such landowner or tenant is situate in more than one district, the return shall be furnished to the collector in whose district then largest area of land mentioned therein situate with additional copies thereof for the Collector of every other district in which the land of such landowner or tenant is situate.

(2) The collector to whom the return in Form VII-A or Form VII-B, is furnished shall issue a receipt to the person furnishing the return as soon as the return in the required number of copies is received by him.

(3) In every case falling under the proviso to sub-rule (1), the Collector receiving in return shall forward two copies thereof to the Collector of every other district in which the land is situate.

20. Patwari to assist landowner or tenant in filing up Form VII-A or VII-B.

(1) A landowner or tenant may, on payment of a fee or one rupee require the Patwari concerned to fill up Form VII-A or Form VII-B, as the case may be, for him:

Patwari that where the land of a landowner or tenant is situated to more than one village, the Patwari of the village in which the largest area of the landowner or tenant is situated shall fill up the Form and it shall be the duty of the landowner or tenant to intimate to the Patwari, the name of the village in which the largest area of his land is situated and to produce to the Patwari attested copies of the entries of Jamabandies of other villages in which his land is situated.

(2) Where a Patwari fills up a Form under sub-rule (1), he shall be responsible for the correctness of all entries taken from the revenue record in his possession and he shall also attach attested copies furnished to him by the landowner or tenant with the Form filled up by him.

(3) The Patwari shall furnish to the landowner or tenant a regular receipt of the fee charged by him for filling up the Form.

(4) After the Form has been filled up in accordance with the provisions of the proceeding sub-rule, the Patwari shall hand it over to the landowner or tenant concerned for submission by him to the Collector as required by sub-rule (1) of rule 19.

21. Verification of particulars given in returns referred to in rule 19. - On receipt of Form VII-A or VII-B, from the person concerned, the Collector shall get the particulars given therein verified by the Tahsildar/Tahsildars of the tahsil/tahsils in which the person owns or holds land in tenancy or in any other capacity.

Provided that where any land is situate in another district, the verification shall be secured through the Collector of that district.

21-A. Form, etc., of declaration under Section 32-BB of the Act. - The declaration supported by an affidavit required to be furnished under Section 32-BB of the Act shall be furnished by a landowner in Forms VII-C and VII-E and by a tenant in forms VI-D and VII-E either personally or by registered post

¹ Inserted by Punjab Government notification No. 188-L-R-II-58/3909, dated the 30th July, 1958.

(acknowledgement due) to the Collector of the district in which his land is situated:

Provided that where the land of any such landowner or tenant is situated in more than one district, the declaration supported by an affidavit shall be furnished to the Collector, in whose district the largest area of land mentioned is situate.

(2) In addition to the Forms referred to in sub-rule (1) as many copies thereof as there are Patwar Circles in which the land is situate shall also be furnished by the landowner or tenant.

(3) The Collector to whom the Forms mentioned in sub-rule (1) are furnished shall, be soon as the Forms in the required number of copies are received by him, issue the following receipt to the person furnishing the Forms: -

"Received _____ copies each of Forms VII-C/VII-D/VII-E prescribed in rule 21-A of the Pepsu Tenancy and Agricultural Lands Rules, 1958, from Shri _____, son of _____, Landowner/Tenant of Village _____, Tahsil _____ and District _____,

Collector,

Dated the _____ 195

Note: - Strike off protien not required.

(4) In every case falling under the proviso the sub-rule (1), the Collector shall retain the original Forms with him and send the requisite number of copies thereof to the Collectors of the districts in which the land of landowner or tenant, as the case may be, is situate.

21-B. Collection of information through Revenue Field Staff, under Section 32-C of the Act. - (1) Where any person referred to in Section 32-B of the Act fails to furnish the return prescribed under that section, the Collector shall cause the return to be filled up by the Patwari, in duplicate in Form VII-F if such person is a landowner or in Form VII-G if such person is a tenant. The Patwari shall retain one copy of each return filled in by him and forward the other to Circle Kanungo.

(2) The Circle Kanungo shall, after personal examination, attest all entries made by the Patwari in Form VII-F or Form VII-G and forward it to the Tahsildar who shall verify it and forward it further to the Collector.

(3) Where, in the case of a landowner, additional copies of Forms VII-C and VII-E, and, in the case of a tenant, additional copies of Forms VII-D and VII-F have been received by the Collector under sub-rule (4) of rule 21-A, the Collector shall, after holding such inquiry as he thinks fit, return them to the Collector from whom they were received along with Form VII-A or Form VII-F, in the case of a landowner and Form VII-B or VII-G, in the case of a tenant, as the case may be.]

22. Draft statement. - (1) After satisfying himself as to the correctness of the particulars mentioned in [Forms VII-A to VII-G, as the case may be], the Collector shall prepare a draft statement (mentioned in sub-section (1) of Section 32-D of the Act), in Form VIII.

¹ Ins. By Punjab Government notification No. 188-LR (II)-583909, dated the 30th July, 1958.

(2) A copy of the statement in Form VIII shall be forwarded immediately by the Collector to the landowner/tenant under cover of an endorsement prescribed in the Form and it shall be served upon the landowner/tenant as if it were a summons in the manner prescribed in Section 90 of the Punjab Tenancy Act, 1887.

23. Final Statement. - The final statement under sub-section (6) of Section 32-D of the Act, shall be in Form VIII which shall be adopted subject to the modification that the word 'Draft' and the form of endorsement appearing thereon shall be omitted.

[23-A. Prescribed relations for the purposes of Section 32-FF of the Act. - For the purposes of Sections 32-FF of the Act, the prescribed relations shall be the wife or husband, male or female descendants and the descendants of such female, father, mother, father's or mother's sister, brother and his descendants, mother's brother and his descendants, wife's brother and sister's husband].

[23-B. Allocation of land for the purposes of second proviso to clause (a) of sub-section (1) of Section 32-G of the Act. - Where land in the surplus area exceeds fifty standard areas, it shall, for the purposes of computing compensation under clause (a) of sub-section (1) of Section 32-G of the Act, be so allocated to sub-clause (i), and (iii) of that clause that the Khasra numbers of fields or the kilanumbers of rectangles, as the case may be, in numerical order, shall first be taken to form the first two slabs of twenty-five standard acres each and the Khasra numbers or kalla numbers, as the case may be, remaining thereafter shall be allocated to sub-clause (iii) of sub-section (1) of Section 32-G of the Act.

Provided that where land in surplus area is situate in more than one village, the allocation shall be made by taking the land in the different villages in the order in which they appear in a list of the village prepared in an alphabetical order in English].

[24. Form of compensation statement: - (1) The compensation statement referred to in sub-section (2) of Section 32-G shall be prepared in Form IX and shall consist of two parts - Part A and Part B.

(2) When the final statement has been published under sub-section 9 of Section 32-D of the Act the Collector or the Officer authorised by the State Government shall, as soon thereafter as may be practicable, prepare Part A of the Compensation statement in accordance with the principles laid down in the proviso to clause a of sub-section [1], of Section on 32-G of the Act and clause [b] of the aforesaid sub-section.

(3) Part B of the compensation statement shall be prepared by the Collector, the officer authorised by the State Government after the commission has determined the fair rent of the land and market value of the building, structure, tube-well or crop, if any, on it.

(4) She compensation determined under sub-rule [2] shall be deemed of to be and hereinafter referred as provisional compensation.

¹ Ins. by Punjab Government notification No. 2169-AR (II)-59/1959, dated the 20th April, 1959.

² Ins. by Punjab Government notification No. G.S.R. 76/Rep. A. 13555. 52/Amnd (3)/63 dated the 28th March, 1963.

³ Subs. by Punjab Government notification No. 848-AR (II)-60/607, dated the 23rd February, 1960.

24-A. Form of notice. - The notice referred to in sub-section of section 02-G of the Act shall be in Form X.

24-B. Mode of Payment of Compensation. - The entire amount of compensation shall be paid in case in three equated annual instalments. Simple interest at the rate four per centum per annum shall be paid to the landowners on the unpaid amount of compensation, from the date on which possession of surplus land was taken]

24-C. Issue of voucher for cash payment - [1] Payment of compensation in cash shall be made through vouchers in Form IX-A. The books each containing 100 vouchers and counterfoils shall be kept in double lock and shall, on receipt of a demand in Form IX-B, be issued to the Collector or the Officer authorised by the State Government, who shall keep the book in his personal custody and shall before commencing use thereof, send and intimation to the Tenancy Officer in Form IX-C. Only one book shall ordinarily be issued by the Treasury Officer to the Collector for the Officer authorised by the State Government at one time.

(2) A voucher which is not encashed for more than three months from the date of its issue shall cease to be cashable unless it is on an application by the holder thereof, countersigned and revalidated for payment by the Collector or the Officer authorised by the State Government. The holder, on failure to obtain payment within three months from the date of issue shall submit the voucher with an application for revalidation of the same. In case of loss, destruction, mutilation of the original voucher, the holder may apply for the issue for a fresh one. In such a case, fresh voucher shall not be issued until after the expiry of six months from the date of issue of the original voucher and after a non-payment certificate has been obtained from the Treasury Officer.

24-D. Account of Voucher. - The Treasury Officer shall keep an account of the vouchers presented and encashed on each day of payment in Form IX-D. The Statement in Form IX-D shall be kept in a guard file. Where no payments are made on an day, the Treasury Officer shall prepare a monthly statement in Form IX-E and send one copy thereof, to the Collector or the officer authorised by the State Government who shall consolidate the same in district statement to be prepared in Form IX-F and shall forward copies thereof one each, to the Commissioner of the Division, Additional Secretary Revenue and Finance Secretary to Government Punjab.]

25. Period for removal of building, structure, tube-well or crop from surplus area. - Under sub-section (4) of Section 32-G of the Act the period shall be, -

- (a) three months from the date on which the final statement is published in the Official Gazette¹ for removing any building, structure or tube-well; and
 - (b) reasonable time for removing a crop.
- Explanation.** - The extent of reasonable time which shall be determined by the Collector with due regard, to the climatic conditions of the area and other circumstances in which a farmer of average prudence may be expected to harvest his crop once it is ripe.

¹ Subs by Punjab Government notification No. G.S.R. 99/Pep. A. 1356S, 52Amd. (5)/70, dated the 15th October, 1970.

125 - A. The prescribed amount payable by the persons to whom land is allotted out of the surplus area in pursuance of scheme framed by the State Government under Section 32-J of the Act shall be equal to the aggregate amount of compensation payable by the State Government for the surplus area which is allotted to them.¹

126. Return in respect of land acquired by a person subsequently. - The return under Section 32-M of the Act shall be furnished by a person in Form X-A or X-B according as he is a landowner or tenant within three months from the date of publication of Punjab Government (Revenue Department notification No. 2169-A-R-(II)-59/1659, dated the 20th April, 1959, or within a period of three months from the date on which he acquires the land by the inheritance, bequest or gift, whichever is later.]

PART VI - Pepsu Land Commission and Functions thereof

1Remuneration payable or Chairman and members of Pepsu Land Commission - The Chairman and members of the Commission shall be paid remuneration for the performance of their duties under sub-section (3) of Section 32-P of the Act according to the following scale: -

- (i) where a retired Judge of the High Court is appointed as Chairman or a retired officer is appointed as member of the Commission, he shall be paid two hundred rupees, respectively, for each day on which the commission meets or transacts business;

Provided that the total amount payable for a month shall not exceed the pay drawn day him immediately before retirement minus gross pension.

- (ii) In addition to the remuneration mentioned in clause (i), there shall be paid to the Chairman Traveling and daily Allowances, at the rate admissible to a Judge of the High Court and to the member of the rate admissible to him on the pay drawn by him before retirement;

- (iii) where a working Judge of the High Court is appointed as Chairman or a working officer is appointed as member of the Commission, he shall be paid his pay and also Traveling and Daily Allowances on tour rates admissible under the rules;

- (iv) where non-official is appointed as member of the Commission, he shall be paid one hundred rupees for each day on which the Commission meets for transacts business, provided that the total amount payable for a month shall not exceed Rs. 1,000.

²Provided further that an honorarium at the rate of Rs. 100 for every additional sitting exceeding 15 shall be paid to the non-official member if the Commission meets or transacts business for full 20 days in a month, and if the Commission meets for transacts business for less than 20 days in a month, the rate of honorarium after 15 sittings shall be Rs. 60 per day.]

¹ Added by Punjab Government notification No. 5784-A RI (II)-60/3262, dated the 14th October, 1960.
² Omitted by Punjab Government notification No. G.S.R. 99/P.U.A-1356S, 52Amd. (5)/70, dated the 15th October, 1970.

³ Omitted by Punjab Government notification No. G.S.R. 99/P.U.A-1356S, 52Amd. (5)/70, dated the 15th October, 1970.

⁴ Punjab Government notification No. 4265-A RI (II)-59/5239, dated the 24th November, 1959.

⁵ Added by Punjab Government notification No. 4725-A RI (II)-61/2514, dated the 22nd July, 1961.

(v) in addition to the remuneration mentioned in clause (iv), there shall be paid Travelling and daily Allowances to the non-official member at the rate admissible to Class 1 Officer of the Punjab Government under the Punjab Civil Services Rules, Volume III.

28. Determination of fair rent and classification and soils. - (1) Fair rents shall be determined by the Commission for each assessment circle as recognised at the last Settlement.

(2) In determining fair rents, the Commission shall -

- (1) follow the principles laid down in rules-1 to -12 of the Land Revenue Assessment Rules, 1929, which shall be applicable *mutatis mutandis* and subject to the amendment that the average yield per acre of any crop given the last Settlement Report shall be adopted; and
- (2) take into account such other factors, not being inconsistent with the provisions of the Act and these rules, as it may consider necessary.

(3) The Commission shall, as far as possible, adhere to the classification of soils as adopted at the last Settlement, and where it feels that owing to any circumstance which may have developed since the last Settlement, reclassification of soils in any area has become necessary, it shall, while reclassifying of soils, keep in view the principle that classification should be as simple as possible and be based on broad differences of a fairly permanent character which effects in a marked degree the economic rental of the land.

29. Determination of market value of building structure, tube-well or crop. -

- (1) In determining the market value of any building, structure or tube-well, the Commission, shall take into account the advice of the chief Engineer P.W.D., Punjab concerned or any other officer nominated by him.

(2) [Omitted.]

30. Exemption of orchards where they constitute compact reasonably areas, specialized farms engaged in cattle breeding, dairying or wool raising and suga cane farms operated by sugar factories. - In advising the State Government with regard to exemption of orchards constitution reasonably, compact areas of specialized farms engaged in cattle-breeding, dairying or wool raising, or sugarcane farms operated by sugar factories from the ceiling in accordance with the provision of Section 32-K of the Act, the Commission may take into account the following factors: -

- (1) In the case of orchards constituting reasonably compact areas - (i) It is in existence on the date of the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, and is recorded as orchard in the Khassra Girdawari of Khairif harvest, 1956; or is alleged to have been planted under clause (v) of sub-section (1) of Section 32-K of the Act, is recorded as orchard in the Khassra Girdawari of Khairif harvest of 1958

- (i) It is primarily used for fruit gardening; and
- (iii) plantation in it is regular and according to recognised principles of horticulture.

¹ Orified by Punjab Government notification No. G.S.R. 76Pep. A. 13/56S. 52/Amd. (2)/63, dated the 28th March, 1963.

² Subs. by Punjab Government notification No. G.S.R. 85Pep. A. 13/55S. 52/Amd. (3)/64, dated the 17th March, 1964.

(2) In the case of specialized farm engaged in cattle breeding and dairying - (i) (a) the number of the adult animals of standard breed including one bull of the same breed shall not be less than twenty-one and whose area shall not be more than twenty-one standard acres;

(b) an additional area of one standard acre per additional animal shall from part of the farm if the number of adult animals of standard breed exceeds the number of animals prescribed in sub-clause (a);

Explanation. - The adult animals of standard breed shall be -

(i) for breeding purposes--

(a) Cows of--

- (i) Haryana breed for plains except Kapurthala District;
- (ii) Sahiwal breed for Kapurthala District;
- (iii) Jersey crosses and Red Sindhi breed for hilly areas.

(b) Buffaloes of --

- (i) Nili for the area lying north of Sirhind Canal, and its Abohar branch, Faridkot Tehsil and the hill areas.

(ii) Murrah for the rest of the areas.

[ii] for dairying purposes--

(a) Cows of--

- (i) Sahiwal breed for plains;
- (ii) Jersey crosses and Sindhis for hilly areas.
- (b) Buffaloes of Murrah and Nili breeds, for all areas.

(3) In the case of specialized forms engaged in wool raising. -- [1] [a] the unit shall comprise not less than 100 sheep of standard breed and whose area shall not be more than twenty standard acres; and

- (b) an additional area of one standard area for every additional unit of 5 sheep of standard breed shall form part of the farm if the number of sheep of standard breed exceeds the number of sheep prescribed in sub-clause (a).

Explanation. -- The sheep of standard breed shall be --

- (i) Magra For plains.
- (ii) Chokla For plains.
- (iii) Nili (Small and large) For plains.
- (iv) Lohi For plains.
- (v) Hissar Dale For plains.
- (vi) Gaddi For hilly areas.
- (vii) Exotic crosses. For hilly areas.

Note: -- "Hilly areas" shall comprise Kandaghat Sub-Division, Nalagrh Sub-Division and Panjaur Kanugoi.

"Plains" shall comprise remaining parts of Patiala, Kapurthala, Sangrur, Bathinda and Mahendergarh districts.

(4) In the case of suga-cane farms operated by Sugar Factories--A Sugarcane Farm operated by a Sugar Factory eligible for exemption from the ceiling is a

farm operated by a sugar factory in which twenty or more the workers are working, on any day during the preceding twelve months and in which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power.

Provided that the Commission may also take into account the following factors:

(1) *In the case of a specialized farm engaged in cattle breeding and dairying:--*

- (i) milk records of individual animals are maintained;
- (ii) history-sheets of the animals and their progeny are maintained;
- (iii) culling of undesirable progeny is carried out;
- (iv) the bull is replaced after every three years to avoid ill-breeding;
- (v) the animals are tested against Tuberculosis and Brucellosis periodically;
- (vi) cleanliness and principles of milk hygiene are adhered to;
- (vii) animals are branded or tattooed for purposes of identification;
- (viii) one third area of the farm is used for growing green leguminous fodder crops and no cash crops are grown thereon;
- (ix) free inspection of the farm by the officers of the Animal Husbandry Department once a year is allowed;
- (x) in case of a unit exceeding 100 animals, the landowner has employed full time qualified Dairy or Veterinary personnel; and

(2) *In the case of specialized farm engaged in wool raising:*

- (i) the wool record of individual animal is maintained;
- (ii) culling of undesirable progeny is carried out;
- (iii) flock is tested for Brucellosis periodically;
- (iv) the ram is replaced after every two years;
- (v) in case of unit exceeding 500 animals the management has engaged full time qualified Veterinary personnel;
- (vi) animals are branded or tattooed for purposes of identification;
- (vii) one third area of the farm is under leguminous fodder crop and the remaining two third area is reserved for grazing purposes; and
- (viii) free inspection of the farm by the officers of the Animal Husbandry Department once a year is allowed.]

131. Exemption of efficiently managed farms:-- (1) Any person claiming exemption from the ceiling under clause (iv) of sub-section (v) of Section 32-K of the Act, shall also furnish information in Form XI to the Collector along with Form VII-A or Form VII-B, as the case may be, and, where Form VII-A or VII-B, as the case may be, has already been furnished to the Collector under rule 17-A of the Pepsu Tenancy and Agricultural Lands Rules, 1953, Form XI shall alone be furnished within one month of the publication of these rules or within such further period as Government may notify.

¹ Subs. by Punjab Government notification No. G.S.R. 76/Pep. 1355S, 52/And. (2)/63, dated the 28th March, 1963.

(2) The features and the maximum marks to be awarded for each feature referred to in clauses (a) and (b) sub-section (4) of Section 32-K of the Act shall given in Schedule B.

(3) The crops and the standards of yield per standard acre of each such crop for the purposes of clauses (c), (b) and (e) of sub-section (4) of Section 32-K of the Act shall be as given in Schedule C.

(4) The information referred to in sub-section (5) of Section 32-K of Section 32-K of the Act shall be furnished by the landowner to the Collector in Form XII personally or through his recognised or by resisted post (acknowledgment due). Information in the aforesaid Form shall be furnished:--

- (i) in the case of Rabi harvest, before the 31st July; and
- (ii) in the case of Kharif harvest, before the 31st January.

Provided that information in respect of harvests prior to and including Kharif 1962, shall be furnished before the 31st July, 1963.]

131-A. Awarding of marks to farms growing non-prescribed crops:-- Where the Pepsu Land Commission finds that it is not possible to award to a farm marks relating to the feature of yield of crops because crops which have not been prescribed are sown in the farm, the Commission may award to such farm marks relating to the feature of yield in the same manner as if the crops so sown are prescribed crops.

Provided that the standard yield of the crops so sown shall be taken to be fifty per centum in excess of the average yield of such crops in the locality in which the farm is situated.]

PART VIII. - Miscellaneous

32. Form and manner of appeals:-- (1) An appeal under Section 39 of the act shall be preferred either personally or through a recognised agent.

- (2) An appeal or revision, as the case may be, shall be on:--
 - (a) one rupee court fee stamp paper, when made to the Collector;
 - (b) two rupees court fee stamp paper, when made to Commissioner; and
 - (c) four rupees court fee stamp paper, when made to the Financial Commissioner.

33. Procedure:-- In all proceedings, under the Act, the Collector or any other Officer shall observe the same procedure as is prescribed for Revenue Officer by the provisions of the Punjab Tenancy Act, 1887.

Provided that, where a Collector or the other Officer is satisfied that no issue of major importance is involved in the proceedings, it shall not be necessary for him to take down the evidence of all the witnesses in writing at length and it would be sufficient if the Collector or such other Officer, as the examination of each witness proceeds, prepares a memorandum of the substance of what he deposes and such memorandum shall form part of the record and in other cases, the evidence of all witnesses shall be recorded in full in the form of a narrative and shall be read out to the witnesses and, after being corrected, if necessary, shall be signed by the Collector or such other Officer, as the case may be.

¹ Inserted by ibid.

34. Court fee--Save as otherwise provided in these rules, all applications made under the provisions of the Act shall bear one rupee court fee stamp and process fees shall be chargeable as prescribed by or under the Court Fees Act, 1870 (Act VII of 1870).

35. Manner of service of notices or orders--Save as otherwise provided in these rules, notices or orders under the Act shall be served in the manner provided in Section 90 of the Punjab Tenancy Act, 1887 (Act No. XVI of 1887).

36. Cancellation of the Pepsu Tenancy and Agricultural Land Rules, 1953--The Pepsu Tenancy and Agricultural Land Rules, 1953, notified, with the erstwhile Pepsu Government notification No. 148, dated the 22nd December, 1953, as amended by Punjab Government, Revenue Department, notifications No. 221-LRR-(CH)-57/3276-A, dated the 2nd August, 1957 and No. 221-LRR (CH)-57/114631, dated the 4th October, 1957, are hereby cancelled:

Provided that, notwithstanding the cancellation of the said Rules, anything done or any action taken on the exercise of any power conferred by or under the said Rules shall be deemed to have been done or taken in exercise of the powers conferred by or under these Rules, as if these Rules were in force on the day on which such thing was done or action was taken.

**THE UTILISATION OF SURPLUS AREA SCHEME, 1960
FRAMED UNDER SECTION 32-J OF THE PEPSU TENANCY AND
AGRICULTURAL LANDS ACT, 1955.**

1. Short title--This scheme may be called the Utilisation of Surplus Area Scheme, 1960.

2. Definitions--(1) In this scheme, unless the context otherwise requires,-

- (a) "Act" means the Pepsu Tenancy and Agricultural Lands Act, 1955 (Act No. 13 of 1955);
- (b) "Biswedari ex-tenant" means a person--
 - (i) who has been a tenant of a Biswedari,
 - (ii) who does not own any land or owns or holds less than five standard acres of land, and
 - (iii) who is found by the prescribed authority to have been deprived of his tenancy in an illegal or unauthorized manner;
- (c) "Biswedari" means a person, not being the founder of the estate, upon whom proprietary rights in land of that estate or part thereof were given by some specific order of a ruler of a covenanting State of the erstwhile State of Patiala and East Punjab State Union;
- (d) "Form" means a Form appended to the scheme;
- (e) "prescribed authority" means the ²[Assistant Collector of either grade] within the area of his jurisdiction.
- (f) "settler" means a person who is settled on surplus area under this scheme and includes his heirs and successors in-interest;
- (g) "tenant" means a person who, before he is ejected under sub-section (1) of section--A, is to be allotted alternative land under the proviso to the aforesaid sub-section; and
- (h) "worker" means a person--
 - (i) who does not own any land or owns less than five standard acres of land;
 - (ii) who has been cultivating separately, for two years prior to the commencement of the Pepsu Tenancy and Agricultural Lands Act, 1955, the land of his father or grand father whose area has been declared surplus; and
 - (iii) whose cultivation as such is recorded in the Khazra Girdawari.

(2) Words and expressions used and not defined in this scheme but defined in the Act or the Rules made thereunder shall have the same meaning as the assigned to them in the Act or the Rule.

3. Application by landowner -- The landowner of a tenant shall make an application to the prescribed authority in Form I for allotment of land to his tenant out of the surplus area. Such an application shall be made within two months of the date of publication of the scheme in the Official Gazette or within such

¹ Published, vide Punjab Government notification No. 4711-AR(I)/6024/5, dated the 4th August, 1960.

² Subs. by Punjab Government notification No. G.S.R. 123/P.U.A. 1355/S. 55/And (1)/65, dated the 4th June 1965.

extended period as may, for reasons to be recorded be allowed by the prescribed authority.

Case Law

***Para 3, 5, 6, 9, 11 and From 5.**--Process of allotment begins with the order of allotment and completes with the issuance of a certificate and delivery of possession of land declared to be surplus. **Hari Chand v. The F.C. (Revenue) Punjab and ors. 1980 AN INDIA LAND LAWS REPORTER 518.**

4. Application by tenant.--Any tenant may make an application to the prescribed authority in Form II for allotment of land out of the surplus area. Such an application shall be made within two months of the date of publication of this scheme in the Official Gazette or within such extended period as may, for reasons to be recorded, be allowed by the prescribed authority.

5. Suo motu proceedings by prescribed authority.--Notwithstanding anything contained in paragraphs 3 and 4 proceedings for allotment of land out of the surplus area to any tenant may be initiated suo motu by the prescribed authority.

6. Procedure to be observed by prescribed authority.--When an application is made under paragraph 3 or paragraph 4 or when the prescribed authority suo motu states proceedings under paragraph 5, he shall after hearing the parties concerned and making such summary inquiry as he may think necessary, record a finding on the following points:--

- (a) whether the landowner is desirous of ejecting his tenant,
- (b) whether the tenancy is liable to be terminated under sub-section (1) of Section 7-A of the Act,
- (c) the extent of area required for allotment under Section 7-A, and
- (d) the estate or estate for which the tenant indicates preference for allotment of land in case on area is available for allotment to him in the estate from which the landowner seeks ejectment.

7. Procedure for allotment of surplus area.--(1) After the procedure prescribed by paragraph 6 has been followed the prescribed authority shall prepare a list of tenants in which the names of tenants of an estate shall be arranged in the same order as the extent of the area required for their settlement, with the smallest claimant coming on the top. Where more than one tenant have equal claims their names shall be arranged in alphabetical order in English language.

Illustration.--"A" is to be allotted four standard acres, "B" three standard acres, "C" two standard acres and "H", "G", "F", "E" and "D" each five standard acres. Their names shall be arranged as under:--

CBADEGH

(2) The prescribed authority shall also prepare a list of the surplus area available in an estate mentioning therein the filed number of the surplus area in numerical order, such as, 1, 5, 10, 30, 60. Where there are killas and rectangles, the numerical order of rectangles shall be observed first and then killas in each rectangle.

(3) After the lists under the preceding sub-paragraphs have been prepared the prescribed authority shall proceed to allot the surplus area to the tenants in the order of priority shown in the list prepared under sub-paragraph (1).

8. Allotment of land to over flow tenants.--(1) Where due to insufficient of surplus Area in any estate any tenant cannot be allotted land in the estate from which he is to be ejected the prescribed authority may, having due regard to the preferences of the tenant indicated under paragraph 6, allot him land in any estate in which surplus area is available. In making such allotment the prescribed authority shall endeavor to allot him land as near to his estates as may be possible.

Explanation.--Allotment of land to such tenants shall be made--

- (i) in the Patwar Circle;
- (ii) in the Quannungo Circle, if no land is available in the Patwar Circle;
- (iii) in the Tehsil, if no land is available in the Quannungo Circle;
- (iv) in the District, if no land is available in the Tehsil;
- (v) in some other district, if no land is available in the District in which the estate from which the tenants is liable to be ejected is situate.

(2) When more than one tenant are eligible for settlement in an estate other than the estate from which they are to be ejected, the principles mentioned in paragraph 7, shall, as far may be, apply in making allotments to them.

9. Allotment of surplus area to workers and Biswedari ex-tenants.--(1) Any worker or Biswedari ex-tenant who is desirous of getting and out of the surplus area may make an application of the prescribed authority. The application by a worker shall be made in Form III and by a Biswedari ex-tenant in Form IV and shall be made within a period of two months of the date of publication of the scheme in the Official Gazette or within such extended period as may, for reasons to be recorded, be allowed by the prescribed authority.

(2) On receipt of an application under sub-paragraph (1) the prescribed authority may, after making, such summary inquiry as he may deem necessary, allot in each case up to five standard acres of land out of the surplus area, provided that--

- (i) in making allotments to tenants, Biswedari ex-tenants and workers the priority indicated in sub-section (3) of Section 32-J of the Act shall be observed;
- (ii) no worker shall be settled on any land other than the surplus area of his father or grand-father, and
- (iii) the allotment of land to a Biswedari ex-tenant shall be made in such a manner so that the land allotted to him together with the land owner of held by him does not exceed five standard acres.

(3) In making allotment to Biswedari ex-tenants the provision of paragraphs 7 and 8 shall, as far as may be, apply.

10. Issue of certificate.--Every settler shall be given a certificate in Form V describing clearly the land allotted to him. A copy of the certificate shall be sent to the Patwari concerned and other copy shall be retained on the file for record.

11. Delivery of possession.--(1) For the purpose of putting the settler in possession of the allotted area the prescribed authority shall first obtain the order of the Collector under Section 32-F of the Act. On receipt of the order of the Collector the landowner shall deliver possession of the land mentioned in the order to the Patwari who shall deliver the same to the settler in whose favour the allotment order with regard to that land has been issued. Each settler shall be bound to take delivery or possession of the allotted land within a period of one

month of the date of issue of the certificate under paragraph 10 or within such extended period as may, for reasons to be recorded in writing, be allowed by the prescribed authority.

(2) The possession of the land allotted to a settler shall be given after the crops are cut. If however, the prescribed authority deems it necessary to deliver possession of the allotted land to any settler before the crops are cut, a statement showing the crop and the area under the same shall be prepared by the Patwari before taking possession. A copy of the statement shall be furnished to the landowner as well as to the settler.

12. Conditions of settlement:—(1) The settler—

- (a) shall be liable to pay all Government dues such as land revenue, surcharge, special charge, special assessment, abiana, betterment levy, consolidation fee, in respect of the land allotted to him, from the date he takes possession of the same;
- (b) shall be liable to pay the prescribed amount of compensation in the manner laid down in paragraph 13;
- (c) shall become full owner of the land allotted to him when all payments due in respect of such land have been made; and
- (d) shall not be competent to transfer his rights in the land allotted to him to any person till all the dues in respect of the land are cleared, except for the purpose of raising a loan from an Land Mortgage Co-operative Bank by mortgaging the same.

(2) In case the settler makes any default in the payment of whole of the amount of compensation or two successive instalments thereof in the manner laid down in Paragraph 13, the allotment or such part thereof as may be sufficient to realize the amount which remains unpaid at the time when default is committed, shall be liable to be cancelled.

13. Manner of payment of compensation:—The prescribed amount of compensation shall be paid by the settler in the following manner:—

(1) The amount payable under Section 32-J of the Act shall, if it is not voluntarily paid in lumpsum be paid:—

- (a) where it does not exceed 200 rupees, in six annual instalments;
- (b) where it exceeds 200 rupees but does not exceed 500 rupees in eight annual instalments;
- (c) where it exceeds 500 rupees but does not exceed 1,000 rupees in ten annual instalments;
- (d) where it exceeds 1,000 rupees but does not exceed 1,500 rupees in fifteen annual instalments; and
- (e) where it exceeds 1,500 rupees, in twenty annual instalments.

(2) All instalment referred to in sub-paragraph (1) shall be equal in amount upto a rupee, the balance, if any, being payable with the last instalment.

(3) The lump sum of the first instalment of compensation shall be deposited in a Government treasury or sub-treasury or paid to the prescribed authority within fifteen days of his taking possession and every subsequent instalment within fifteen days of the date on which it become due.

[14. Appeal, review and revision:—The provision in regard to appeal review and revision under the Scheme shall, so far as may be, be the same as provided in Sections 80, 81, 82, 83 and 84 of the Punjab Tenancy Act, 1887 (Act XVI of 1887).]

Case Law

Para 14 (as added by notification dated 4th June, 1965).—Paras 3, 5, 9, 11 and Form 5.—Review.—Power of review vested in the prescribed authority at the time when delivery of possession was completed.—Power not so vested at the time of allotment.—Prescribed authority is competent to review: *Harj Chand v. The F.C. (Revenue) Punjab and ors. 1980 ALL INDIA LAND LAWS REPORTER 518.*

Para 13.—Punjab Land Reforms Act, 1972.—Para 13 of the scheme is not ultra vires of the Act: *Bal Singh v. Swaran Singh and ors. 1980 ALL INDIA LAND LAWS REPORTER 421.*

Surplus area.—Plea that the ownership was benami only.—Decided without affording hearing.—Order quashed: *Niranjan Singh vs. State of Punjab & ors. 1980 ALL INDIA LAND LAWS REPORTER 102.*

Utilisation of Surplus Area Scheme, 1960.—Land owner being a blind man, his land cultivated by his sons.—Sons allotted the surplus land as they fell within the definition of workers as given in the utilisation of Surplus Area Scheme, 1960.—Allotment made by the prescribed authority in June, 1962.—Land mutated in favour of State without cancelling the order of allotment.—Order mutuating the surplus land in favour of State set aside: *Sher Singh & anr. vs. F. (Revenue) Punjab & ors. 1980 ALL INDIA LAND LAWS REPORTER 351.*

FORM I

(See Paragraph 3)

Name and particulars of the petitioner/landowner	Whether he is a small landowner	The area from which the election of the tenant is sought and whether it was reserved	Particulars of the tenants whose election is sought	Whether the tenant owns or holds any lands other than from which he is to be elected and if so, its particulars
1	2	3	4	5

FORM II

(See Paragraph 4)

Name and particulars of the petitioner	Particulars of the area from which he is liable to election under Section 7-A	Particulars of the landowners from whose lands he is liable to be elected	Particulars of the area he owns or holds, other than that mentioned in Column 2	Names of estates in which he has preference where he likes to be resettled if no area is available in his estate

Added by Punjab Government notification No. G. S. R. 193/P. U. A. 135/S. 59/Land. (1) 65 dated 4th June, 1965.

1	2	3	4	5

FORM III

(See Paragraph 9)

Particulars of the petitioner	Relationship with the person whose surplus area is claimed for settlement and the particulars of person	Particulars of the area under his separate cultivation and the year from which he is in possession thereof	Total area of father or grandfather declared surplus	Number of workers claiming settlement
1	2	3	4	5

FORM IV

(See Paragraph 9)

Name and particulars of the ex-biswedat tenant	Extent of area from which he has been ejected in an unauthorized manner and when	The Biswedat who has ousted him	Particulars of the area he owns or holds other than that mentioned in column No 2	The names of the villages in order of preference where he likes to be resettled if no area is available in his own village
1	2	3	4	5

FORM V

(See Paragraph 10)

- 1 Particulars of the settler
- 2 Particulars of the land allotted showing the area, in ordinary and standard acres
- 3 The place where the area is situated
- 4 Time, if any, fixed for taking over possession
- 5 Amount payable as compensation in respect of the land and the time for payment

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ਵਿੱਤੀ ਕਮਿਸ਼ਨਰਜ ਸਕੱਤਰੇਤ, ਪੰਜਾਬ।

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