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THE UNITED PROVINCES TENANCY ACT, 1939

(U. P. Act No. XVII of 1939)

[As amended by all subsequent Acts including (1) the United Provinces Tenancy (Amendment) Act, V of 1943, (2) the United Provinces Tenancy (Amendment) Act, III of 1946, (3) the United Provinces Tenancy (Amendment) Act X of 1947 and (4) the United Provinces Tenancy (Amendment) Act, XII of 1948.]

Passed by the United Provinces Legislative Assembly on April 24, 1939, and by the United Provinces Legislative Council on September 16, 1939 with certain amendments which were agreed to by the United Provinces Legislative Assembly on October 3 and 4, 1939.

(Received the assent of Governor of the United Provinces on December 6, 1939, under section 75 of the Government of India Act, 1935, and was published in the United Provinces Government Gazette on December 16, 1939.)

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies, [*proprietary cultivation] and other matters connected therewith in Agra and Oudh : It is hereby enacted as follows :

CHAPTER I

Preliminary

1. (1) This Act may be called the United Provinces Tenancy Act, 1939.

(2) It extends to the whole of the Uttar Pradesh except the areas specified in the First Schedule, the Jaunsar Bawar Pargana of the Dehra Dun District and the portion of the Mirzapur District south of the Kaimur range :

Provided that the State Government may, by notification in the official Gazette, extend the whole or any part of this Act to the whole or any portion of the area specified in the First Schedule subject to such modification, if any, as it thinks fit :

Provided further that when this Act or any portion of it is extended to the whole or any portion of the area specified in the First Schedule with or without modification so much of any Act or Regulation in force therein as is inconsistent with this Act or the portion so extended or with any modification made therein shall be deemed to have been repealed thereby :

Provided further that no provision of this Act which is inconsistent with the provisions of the pargana of Kaswar Raja Act, 1945, shall apply to the pargana of Kaswar Raja in the district of Benares.

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Short title,
extent and
commence-
ment.

[*] See U. P. Act X of 1947.

- (3) It shall come into force on such date as the State Government may, by notification in the official *Gazette*, appoint in this behalf.
- Repeal. 2. (1) The Agra Tenancy Act, 1926, is hereby repealed except in respect of the areas to which this Act does not apply.
- Interpretation. (2) The Oudh Rent Act, 1886, is hereby repealed.
3. In this Act, unless there is something repugnant in the subject or context,—
- (1) all words and expressions used to denote the possessor of any right, title or interest in land whether the same be proprietary or otherwise, shall be deemed to include the predecessors and successors in right, title or interest of such person;
- (2) "agricultural year" means the years commencing on the first day of July and ending on the thirtieth day of June;
- (3) "Board", "commissioner", "collector", "revenue court", "revenue officer", "settlement officer", "assistant settlement officer", "assistant collector", "assistant collector in charge of a sub-division", "tahsildar", "mahal", "lambar-dar", "sub-proprietor", "under-proprietor", "superior proprietor" and "minor" have the same meaning as in the United Provinces Land Revenue Act, 1901, except that a sub-proprietor does not include a rent-free grantee.
- (4) "commissioner" includes an additional commissioner and "collector" includes an additional collector;
- (5) "crops" include shrubs, bushes, plants and climbers such as tea bushes, rose bushes, betel plants, plantains and papayas;
- (6) "grove-land" means any specific piece of land in a mahal or mahals having trees planted thereon in such numbers that they preclude, or when full grown will preclude, the land or any considerable portion thereof from being used primarily for any other purpose; and the trees on such land constitute a grove;
- (7) "holding" means a parcel or parcels of land held under one lease, engagement or grant, or in the absence of such lease, engagement or grant under one tenure and in the case of a thekadar includes the theka area;
- (8) "improvement" means with reference to a tenant's holding:
- (i) a dwelling house erected on the holding by the tenant for his own occupation or a cattle-shed or a store house or any other construction for agricultural purposes erected or set up by him on his holding;
- (ii) any work which adds materially to the value of the holding and is consistent with the purpose, for which it was let, and which, if not executed on the holding, is either executed directly for its benefit or is after execution made directly beneficial to it; and, subject to the foregoing provisions of this clause, includes—
- (a) the construction of wells, water channels, and other works for the supply or distribution of water for agricultural purposes,
- (b) the construction of works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water;

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(c) the reclaiming, clearing, enclosing, or terracing of land ;

(d) the erection in the immediate vicinity of the holding otherwise than on the village site, of buildings required for the convenient or profitable use or occupation of the holding ;

(e) the construction of tanks or other works for the storage of water for agricultural purposes ;

(f) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs :

Provided that such water channels, embankments, enclosures, temporary wells, or other works as are made by tenants in the ordinary course of cultivation shall not be deemed to be improvements ;

(9) "*khudkasht*" means land other than *sir* cultivated by a landlord, and under-proprietor or a permanent tenure-holder as such either himself or by hired labour ;

(10) "land" means land which is let or held for growing of crops, or as groveland or for pasturage. It includes land covered by water used for the purpose of growing *singhara* or other produce, but does not include land for the time being occupied by buildings or appurtenant thereto other than building which are improvements ;

(11) "landholder" means the person to whom rent is, or, but for a contract express or implied would be payable, but except in Chapter VII and Chapter XIII does not include an assignee of rent or a person who has lost the proprietary or other interest by virtue of which rent became payable to him ;

(12) "landlord" means the proprietor of a *mahal*, or of a share, or specific plot, therein. In Agra it includes a sub-proprietor ; in Oudh, except as otherwise provided in this Act, it does not include an under-proprietor ;

(13) "lease" includes the counterpart of a lease ;

(14) "pay" with its grammatical variations and cognate expressions, when used with reference to rent, includes "deliver" with its grammatical variations and cognate expressions ;

(15) "permanent lessee" means a person in Oudh who holds under a heritable non-transferable lease and who is entered in the register maintained under the provisions of clause (b) or clause (c) of section 32 of the United Provinces Land Revenue Act, 1901 ;

(16) "recorded" means recorded in a register maintained under the provisions of section 32 of the United Provinces Land Revenue Act, 1901 ;

(17) "registered" means registered under any Act for the time being in force for the registration of documents and includes "attested" under the provisions of section 57 ;

(18) "rent" means whatever is, in cash or kind, or partly in cash and partly in kind, payable on account of the use or occupation of land or on account of any right in land and in Chapter VII, except when the contrary intention appears, includes *sayar* ;

Explanation—A share of the timber or its value deliverable or payable to the landholder on a sale of trees by grove-holders is rent ;

(19) "revenue" means land revenue and includes revenue assessed only for the purpose of calculating the local rate payable under the United Provinces Local Rates Act, 1914 ; 1914.

(20) "sayar" includes whatever is to be paid or delivered by a lessee or licensee on account of the right of gathering produce, forest rights, fisheries and the use of water for irrigation from artificial sources ;

(21) "sir-holders" means a landlord, an under-proprietor or a permanent tenure-holder, who possesses sir ;

(22) "sub-tenant" means a person who holds land from the tenant thereof other than a permanent tenure-holder, or from a grove-holder or from a rent-free grantee or from a grantee at a favourable rate of rent and by whom rent is, or but for a contract express or implied would be, payable ;

(23) "tenant" means the person by whom rent is, or but for a contract express or implied would be, payable and, except when the contrary intention appears, includes a sub-tenant, but does not include a mortgagee of proprietary or under-proprietary rights, a grove-holder, a rent-free grantee or a grantee at a favourable rate of rent or, except as otherwise expressly provided by this Act, an under-proprietor, a permanent lessee or a thekadar ;

(24) "thekadar" means a farmer or other lessee of the rights in land of a proprietor, an under-proprietor or a permanent lessee or mortgagee in possession and in particular of the right to receive rents or profits, but does not include an under-proprietor or a permanent lessee.

Restrictions
on
agreement
between
land holder
and tenant.

4. (1) Every agreement, whether made before or after the commencement of this Act, which purports, or would operate, to restrict a tenant from enforcing or exercising any right conferred on, or secured to, him by this Act is void to that extent.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), an agreement between a land-holder and a tenant is void in so far as it purports—

(a) to prevent a hereditary tenant from acquiring any of the rights conferred on hereditary tenants under the provisions of this Act ;

(b) to take away or limit the right of a tenant to make improvements or to claim compensation for the same in accordance with the provisions of this Act ;

(c) to entitle a landholder to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act ;

(d) to take away the right of a tenant to sublet in accordance with the provisions of this Act.

(3) When land not previously cultivated has been reclaimed by the landholder and let to a tenant or has been let to a tenant in order that it should be reclaimed, then for a period of fourteen years after such land was first brought under cultivation nothing in this section shall be construed as affecting the conditions of any contract which relate to enhancement, abate-

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ment or variation of the rent of such land or which provide that during any period for which such land is to be held free of rent the tenant is liable to ejection for breach of any condition thereof.

Explanation—When land has remained uncultivated for a period of seven years it shall for the purposes of this subsection be deemed to have not been previously cultivated.

(4) Subject to the provisions of this section and any other law for the time being in force, any agreement entered into between a landholder and a tenant relating to a holding, including an agreement conferring transferable rights, shall be valid and enforceable.

5. Save as otherwise provided by the Code of Civil procedure, 1908, in the case of proceedings governed by that Code, anything which is by the Act required or permitted to be done by a landholder, may be done by an agent of the landholder authorized by him in this behalf; and process served on or notice given to, such agent shall be as effectual for all purposes as if the same had been served on, or given to, the landholder in person; and all the provisions of this Act relating to the service or process on, or the giving of notice to, a party shall be applicable to the service of process on, or the giving of notice to, such agent.

Power of
landholder
to act
through
agent.

CHAPTER II

Sir

Definition
of *sir*.

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6. "*Sir*" means—

(a) land which immediately before the commencement of this Act was *sir* under the provisions of the Agra Tenancy Act, 1926, or the Oudh Rent Act, 1886:

Provided that if at the commencement of this Act, the *sir* holder is assessed in the Uttar Pradesh to a local rate of more than twenty-five rupees, land which was *sir* under the provisions of clause (d) of clause (e) of section 4 of the Agra Tenancy Act, 1926, or of clause (c) or clause (d) of subsection (17) of section 3 of the Oudh Rent Act, 1886, shall on this Act coming into force cease to be *sir* unless it was—

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(i) before the first day of July, 1938, received otherwise than in accordance with the provisions of section 122 of the United Provinces Land Revenue Act, 1901, or

(ii) before the commencement of this Act, received in accordance with the provision of that section,

in exchange for land which was *sir* under the provisions of clause (a) or clause (b) or clause (c) of section 4 of the Agra Tenancy Act, 1926, or of clause (a) or clause (b) of subsection (17) of section 3 of the Oudh Rent Act, 1886:

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Provided further that the provisions of the first proviso shall apply to a *sir*-holder who was not at the commencement of this Act assessed in the Uttar Pradesh to a local rate of more than twenty-five rupees if he or his predecessor in interest was so assessed on the 30th June, 1938, unless the local

*Sec U. P. Act X of 1947.

rate assessed on him has been decreased by resettlement or by revision of settlement or unless since that day he obtained his *sir* rights by succession or survivorship :

Provided also that if the land to which the provisions of the first proviso apply was joint *sir* of several *sir*-holders and all such joint *sir*-holders are not *sir*-holders to whom such provisions apply, such land shall not cease to be *sir* at the commencement of this Act, but shall remain *sir* until that portion of it which is the *sir* of those joint holder to whom such provisions apply is demarcated under the provisions of this Act ;

(b) land which was *khudkasht* and which is demarcated as *sir* under the provisions of this Act.

Explanation.—If any portion of the land revenue assessed on the *sir*-holder's land has been remitted owing to a fall in the price of agricultural produce, the local rate payable by him shall, for the purposes of this section, be deemed to have been reduced in the same proportion.

Application
to joint
Hindu
families.

7. For the purpose of the provisos to section 6 each member of a joint Hindu family shall be deemed to be assessed to so much of the local rate assessed on the property of such family as appertains to his share in such property :

Provided that a member of such family, any of whose male lineal ascendants in the male line of ascent is alive and joint with such member, shall not for such purposes be deemed to be a *sir*-holder of any portion of the *sir* of such family and the share of such member in such property shall be deemed to be* included in the share of his oldest surviving ascendant in the male line of ascent and the local rate assessed on such share shall be deemed to be assessed on the share of such oldest surviving ascendant.

Definition
of *sir* right.

8. "*Sir* right" means the rights conferred on *sir*-holders by this Act and by the United Provinces Land Revenue Act, 1901, and includes the right to exclusive possession of the *sir* against co-sharers of the *sir*-holder in the proprietary right, subject to a liability to account for profits.

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Succession
to and
transfer of,
sir right.

9. (1) On the death of a *sir*-holder *sir* rights shall not devolve except in accordance with the personal law to which the deceased was subject.

(2) *sir* right is not transferable except—

(a) by gift to a person to whom the proprietary right in the *sir* is gifted, or

(b) by exchange :

Provided that no *sir*-holder shall exchange *sir* for *sir* in a mahal in which he is not a co-sharer unless the proprietary rights in the *sir* are exchanged.

Exchange of
sir.

10. A landholder may agree with his tenant to exchange *sir* which is not let for land which such tenant holds from such landholder and which he has not sublet and on such exchange each party shall have the same rights in the land which he receives in exchange as he had in the land which he gives in exchange.

*See U. P. Act I of 1940.

11. Land shall cease to be *sir*—

- (a) when the *sir*-holder becomes an expropriary tenant of such land ; or
 (b) when under the provisions of this Act hereditary rights accrue in such land ; or
 (c) when, being grove-land, it is transferred otherwise than in accordance with the provisions of sub-section (2) of section 9 :

Extinction of *sir* right.

Provided that, if an expropriary tenant regains his proprietary right in the land held by him as expropriary tenant, such land shall again become his *sir* :

Provided further that if on redemption of a mortgage the mortgagor regains possession of land which under the provisions of the Agra Tenancy Act, 1926, ceased to be *sir* and to which the provisions of the second paragraph of sub-section (5) of section 15 of that Act applied, such land shall again become his *sir*.

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12. (1) If on the death of a *sir*-holder the proprietary right in his *sir* does not devolve according to the personal law to which the deceased was subject, every person on whom no such right devolves but on whom such right would have devolved in accordance with that law, shall become a hereditary tenant of so much such *sir* as corresponds with the share in such right as would have devolved on him according to that law.

Hereditary right of *sir*-holder's heir on whom proprietary rights do not devolve.

(2) When proprietary right in *sir* devolves on a person on whom it would have devolved under the personal law to which the deceased was subject and hereditary rights accrue in favour of other persons under the provisions of sub-section (1), the assistant collector in charge of the sub-division shall demarcate and divide off the area in which hereditary rights accrue and shall, in accordance with rules made by the Board, determine the rent payable for such area.

Explanation—In this section and in section 9 the expression "personal law" in the case of Muslims shall mean the Muslim law of inheritance.

13. In sections 8 and 9, and sections 11 and 12 the words "proprietary rights" shall be deemed to include the right of an under-proprietor and of a permanent tenure-holder, and in section 10 the word "tenant" includes an under-proprietor and a permanent lessee.

Application of "proprietary right" and "tenant" to other sections.

14. Any person who at the commencement of this Act is a tenant of land which ceased to be *sir* under the provisions of section 6 shall become a hereditary tenant of his holding.

Right of certain tenants of *sir*.

15. (1) An assistant collector in charge of a sub-division may of his own motion, and shall on the application of any joint holder of *sir* to which the provisions of the third proviso to clause (a) of section 6 apply, or of any tenant of such *sir* demarcate and divide off so much of such *sir* as was immediately before the commencement of this Act the *sir* of those joint *sir*-holders to whom the provisions of the first proviso to that clause apply and shall declare that the portion so demarcated and divided off has ceased to be *sir* from

Demarcation of joint *sir*.

the date of his order and that from that date any tenant of such *sir* is a hereditary tenant.

(2) If in the course of proceedings under the provisions of sub-section (1) the assistant collector declares that a portion only of the holding of a tenant, has ceased to be *sir* he shall divide off such portion and determine the rent of such portion and of the remainder.

(3) Before passing orders under this section, the assistant collector may make such inquiry as he considers necessary and shall give to such joint holders as have not joined in the application and the tenants of *sir*, if any, an opportunity to show cause, if they wish to, why the demarcation should be made in any particular way.

Hereditary
rights in *sir*
and
demarcation
of *sir* which
is let.

16. (1) Every person who at the commencement of this Act is a tenant of *sir* holding from a *sir*-holder to whom the provisions the first proviso to clause (a) of section 6 apply shall, at such commencement, become a hereditary tenant of his holding if at such commencement such *sir*-holder possesses fifty acres or more than fifty acres of *sir* which is not let, and which did not cease to be *sir* under any of the previous provisions of this Act.

(2) If at such commencement such *sir*-holder possesses less than fifty acres of such *sir*, such person shall become a hereditary tenant only in accordance with a declaration to that effect made under the provisions of sub-section (3).

(3) In a case to which the provisions of sub-section (2) apply the assistant collector may, of his own motion, and shall on the application either of the *sir*-holder or the tenant, demarcate the *sir* of the *sir*-holder and shall declare that any tenant of land situated in the area not so demarcated shall be a hereditary tenant of his holding or of such portion thereof as is situated in such area.

(4) In demarcating *sir* under the provisions of sub-section (3), the assistant collector shall demarcate as *sir* so much of the *sir*-holder's *sir* and of his *khudkash* as amounts to fifty-acres, or the area of the *sir*-holder's *sir* which ever is less :

Provided that only so much of the *sir*-holder's *sir* which is let shall be demarcated as *sir* as is necessary to make the total area demarcated as *sir* equal to fifty acres or the area of the *sir*-holder's *sir* whichever is less.

(5) If in accordance with the provisions of sub-section (3) the assistant collector orders that a tenant be the hereditary tenant of a part only of his holding he shall divide off such portion and shall determine the rent of such portion and of the remainder.

(6) Before passing orders under sub-section (3) the assistant collector may make such inquiry as he considers necessary and shall give the *sir*-holder and the tenants of *sir* an opportunity to show cause why the demarcation should be made in a particular way.

(7) For the purposes of this section an acre situated in Bundelkhand or in the trans-Jumna portion of the Allaha-

bad, Etawah, Agra and Muttra districts and in such other areas as the State Government may specify by notification in the official *Gazette* shall be deemed to be half an acre.

17. If the *sir*-holder is a person belonging to one of the classes to which the provisions of section 41 apply or if the property of the *sir*-holder is under the superintendence of the Court of Wards *sir* let to a tenant who was admitted to his tenancy by such person or while such property was under the superintendence of the Court of Wards shall for the purposes of section 16 be deemed not to be let and such tenant shall not be a hereditary tenant of his holding.

Bar to hereditary rights in *sir* of disabled persons, etc.

18. (1) If a *sir*-holder to whom the provisions of section 16 apply possesses joint *sir* or joint *khudkasht*, the assistant collector, if he considers it necessary to do so, may before demarcating *sir* under the provisions of that section demarcate and divide off so much of such joint *sir* or joint *khudkasht* as appertains to the share of such *sir*-holder, and the provisions of section 16 regarding *sir* or *khudkasht*, as the case may be, shall apply to the area so divided off.

Demarcation of *sir* the case of joint *sir* or joint *khudkasht*.

(2) If in the course of proceedings under section 16 the assistant collector finds that the *sir*-holder is a person who might have applied under the provisions of section 15, he shall stay such proceedings until the *sir* to which the provisions of section 15 apply has been demarcated under the provisions of that section.

"19. (1) In a suit or proceeding for the ejectment of a tenant of *sir*, the *sir*-holder shall, before the first date fixed for recording evidence, furnish to the court such particulars as the Board may by rule made in this behalf prescribe for ascertaining—

Sir-holder not to eject a tenant in certain circumstances.

(a) whether the *sir*-holder is a person to whom the provisions of the first proviso to clause (a) of section 6 apply; and

(b) the total area and nature of the *sir*-holder's *sir* and *khudkasht*;

Provided that if the *sir*-holder satisfies the court that he had sufficient cause for not filing the particulars before the date fixed, it may, subject to the payment of costs to the opposite party, extend the time.

(2) If the *sir*-holder does not file the particulars mentioned in sub-section (1) within the time fixed thereunder, or deliberately furnishes inaccurate particulars, the court shall dismiss the suit or proceeding, as the case may be, and shall declare the tenant to be a hereditary tenant.

(3) If the court finds that the *sir*-holder could apply under the provisions of section 15 or section 16, it shall before deciding such suit or proceeding take action under section 15 or section 16, as the case may be, and if it declares or orders that the tenant is a hereditary tenant of the whole or any part of his holding, it shall dismiss the suit or proceeding.

Provided that if the court is not empowered to take action under the provisions of section 15 or section 16, it shall forward the case to the Assistant Collector in charge of the sub-division who shall decide it in accordance with the provisions of this section."

str.

20. Every person, who is a tenant of *sir* at the commencement of this Act and who does not become a hereditary tenant under the provisions of section 14 or section 15 or section 16 or who is admitted thereafter as a tenant of *sir*, shall be entitled to retain possession of his holding for a period of five years from the date of the commencement of this Act or of admission as the case may be.

*"20-A. Every person who, on the date of the commencement of the United Provinces Tenancy (Amendment) Act, 1947, is a tenant of *sir* holding from a *sir*-holder to whom the provisions of the first proviso to clause (a) of section 6 apply, and who does not become a hereditary tenant under the provisions of section 14, or section 15 or section 16, shall be entitled to retain possession of his holding for a period of five years from that date."

CHAPTER III

*Classes of Tenants*Classes of
tenants.

21. There shall be, for the purposes of this Act, the following classes of tenants, namely:

- (a) permanent tenure-holders,
- (b) fixed rate tenants,
- (c) tenants holding on special terms in Oudh,
- (d) expropriary tenants,
- (e) occupancy tenants,
- (f) hereditary tenants,
- (g) non-occupancy tenants.

Permanent
tenure-
holders.

22. (1) When in Agra any permanent and transferable interest in land in a district or portion of a district which is permanently settled has been held, otherwise than under a terminable lease, by any person intermediate between the landlord and the occupants, from the time of the permanent settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.

Fixed-rate
tenants.

(2) Such person shall be called a permanent tenure-holder.

23. (1) When in Agra any land in a district or portion of a district which is permanently settled has been held by a tenant from the time of the permanent settlement at the same rate of rent, such tenant shall have a right of occupancy at that rate.

(2) Such tenant shall be called a fixed-rate tenant.

Presump-
tion from
entry at
revision of
records.

24. (1) In those districts or portions of districts in which a revision of records has taken place since the first day of January, 1875 every entry made in the revision recording a person as a permanent tenure-holder, or a fixed-rate tenant, or otherwise, shall, in the absence of a judicial decision to the contrary in proceedings instituted before the first day of January, 1902, be as between landlord and tenant conclusive proof that such person was at the date of such revision a permanent tenure-holder, or a fixed-rate tenant, or not, as the case may be.

(2) In those districts or portions of districts in which no revision of records has taken place since the first day of January,

*See U. P. Act X of 1947.

1875, if in any suit or proceeding an issue arises whether a person is a permanent tenure-holder or fixed-rate tenant and it is proved that he has held any land at the same rate of rent for twenty years next before the institution of the suit or proceeding, it shall be presumed, unless the contrary is proved that he has held such land at the same rate of rent since the permanent settlement:

Provided that if hereafter a revision of records takes place in any such district or portion of a district, the provisions of this sub-section shall cease to operate, and those of sub-section (1) shall become operative therein.

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of
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25. Every tenant in Oudh holding under a special agreement or a judicial decision made or passed before the passing of the Oudh Rent Act, 1886, shall be called a tenant holding on special terms, and subject to the terms of such agreement or decree, and save as otherwise expressly provided in this Act, shall have all the rights and be subject to all the liabilities conferred and imposed upon occupancy tenants in Oudh by this Act.

Tenants
holding on
special
terms in
Oudh.

26. (1) When the landlord of the whole of a mahal or of a specific area in a mahal transfers the whole of his proprietary right in such mahal or area by voluntary alienation otherwise than under the provisions of sub-section (2) of section 9, or when the whole of such landlord's right in such mahal or area is transferred by foreclosure or sale in execution of a decree or order of a civil or Revenue court, the landlord shall become an expropriatory tenant of his *sir* and of such portion of his *khudkasht* as he has cultivated continuously for three years at the date of transfer.

Exproprie-
tary
tenants.

(2) When the landlord of a share in a mahal or in a specific area in a mahal so transfers the whole of such share or when such share is so transferred the landlord shall become an expropriatory tenant of his *sir* and of such portion of his *khudkasht* as he has cultivated continuously for three years at the date of the transfer and which in the case of joint *sir* or joint *khudkasht* is demarcated by the officer empowered to fix the rent of the holding under the provisions of section 36 of the United Provinces Land Revenue Act, 1901.

(3) When the landlord of the whole or of a share of a mahal or of a specific area in a mahal so transfers a part of such whole or of such share, or of such area or when a part of such whole or of such share or of such area is so transferred, the landlord shall become an expropriatory tenant of so much of his *sir* and of such portion of his *khudkasht* as he has cultivated continuously for three years at the date of transfer as appertains or corresponds to such part and is demarcated by the officer empowered to fix the rent of the holding under the provisions of section 36 of the United Provinces Land Revenue Act, 1901.

(4) If in the course of proceedings under this section the officer empowered to fix the rent of the holding finds that any of the landlord's *sir* is land to which the provisions of the third proviso to clause (a) of section 6 apply, or that the landlord is *sir*-holder to whom the provisions of sub-section (2) of section 16 apply, he shall stay proceedings under this section and shall proceed under the provisions of section

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1901:

15 or section 16, as the case may be, and the provisions of this section regarding *sir* shall not apply to any area in which he orders that the tenants are hereditary tenants.

(5) Every person who becomes an expropriatory tenant under the provisions of this section or who, at the commencement of this Act, is an expropriatory tenant in accordance with the provisions of any previous Act or who is or becomes an expropriatory tenant under any other enactment for the time being in force shall be entitled to all the rights conferred and be subject to all the liabilities imposed on expropriatory tenants by this Act and unless the rent payable by him was fixed under the provisions of a previous Act, it shall be fixed in accordance with the provisions of this Act by the officer empowered to do so under the provisions of section 36 of the United Provinces Land Revenue Act, 1901.

(6) A mortgage shall be deemed to be a transfer within the meaning of this section when it has the effect of transferring proprietary possession of the mortgaged property from the mortgagor, but not otherwise.

(7) No right shall accrue under this section in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

(8) For the purposes of this section the word "landlord" shall include an under-proprietor and a permanent tenureholder and the words "proprietary right" shall include the right of an under-proprietor and of a permanent tenureholder.

(9) Notwithstanding anything in this section expropriatory rights shall not accrue in grove-land.

27. Subject to the provisions of section 82 no agreement for the relinquishment or having the effect of a relinquishment of expropriatory rights shall be enforceable in any court whether such agreement was entered into before or after such expropriatory rights accrued.

28. Every tenant, who is not a fixed-rate tenant or an expropriatory tenant and who, at the commencement of this Act, has acquired a right of occupancy under the Agra Tenancy Act, 1926, or any previous enactment relating to Agra or under the Oudh Rent Act, 1886 shall be called an occupancy tenant, and shall have the rights and be subject to the liabilities conferred and imposed on occupancy tenants by this Act.

29. Every person belonging to one or another of the following classes shall be a hereditary tenant, and subject to any contract which is not contrary to the provisions of section 4 shall be entitled to all the rights conferred and be subject to all the liabilities imposed on hereditary tenants by this Act, namely:

(a) every person who is, at the commencement of this Act, a tenant of land otherwise than as a permanent tenureholder, a fixed-rate tenant, a tenant holding on special terms in Oudh, an expropriatory tenant an occupancy tenant, or except as otherwise provided in this Act as a sub-tenant or a tenant of *sir*;

Agreement
for relin-
quishment
of expro-
prietary
right not
enforceable.
Occupancy
tenants.

Hereditary
tenants.

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(b) every person who is, after the commencement of this Act, admitted as a tenant otherwise than as a tenant of *sir* or as a sub-tenant;

(c) every person who, in accordance with the provisions of this Act, acquires hereditary rights.

"*Explanation*—For the purposes of this section, "sub-tenant" does not include a person who holds land from a relation, dependant or servant of the land-holders, unless such relation, dependant or servant proves to the satisfaction of the court that he is a genuine tenant of such land and has not been admitted to prevent the accrual of hereditary rights in favour of such person."

30. Notwithstanding anything in section 29, hereditary rights shall not accrue in—

Land in which hereditary right shall not accrue.

(1) grove-land, pasture land or land covered by water and used for the purpose of growing *singhara* or other produce;

(2) land used for casual or occasional cultivation in the bed of a river;

(3) land acquired or held for a public purpose or a work of public utility; and in particular, and without prejudice to the generality of this clause—

(a) lands at present or which may hereafter be set apart for military encamping grounds;

(b) lands situated within the limits of any cantonment;

(c) lands included within railway or canal boundaries;

(d) lands acquired by a town improvement trust, in accordance with a scheme sanctioned under section 42 of the United Provinces Town Improvement Act, 1919; or by a municipality for a purpose mentioned in clause (a) or clause (c) of section 8 of the United Provinces Municipalities Act, 1916;

(e) lands within the boundaries of any Government forests;

(f) municipal trenching grounds;

(g) land held or acquired by educational institutions for purposes of instruction in agriculture;

(4) such tracts of shifting or unstable cultivation as the State Government may specify by notification in the official *Gazette*;

(5) such areas included in tea estates as the State Government, with the previous approval of both Houses of the Legislature, may notify as areas in which, in the interest of the tea industry, hereditary rights should not accrue;

"Provided that, notwithstanding the inclusion of any plot in any notification issued under this clause before the first day of September, 1946, such plot if held by a tenant the aggregate area of whose holdings exceeds one-half of an acre, shall be deemed never to have been included in any such notification:

Provided further that if any tenant has been ejected since January 1, 1940, from any plot to which the foregoing proviso applies, on grounds other than those on

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of
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II of
1916.

* See U. P. Act X of 1946.

which a hereditary tenant is liable to ejection, such ejected tenant shall be reinstated in such plot, if he applies to a competent court within six months from the date of the commencement of the United Provinces Tenancy (Amendment) Act, 1947."

(6) land transferred by a mortgage to which the provisions of the second paragraph of sub-section (5) of section 15 of the Agra Tenancy Act, 1926, apply during the period specified in that paragraph;

"(7) The *khudkasht* of a landlord, permanent tenure holder or under-proprietor, the local rate payable by whom does not exceed Rs. 25 per annum, if such *khudkasht* is let out when such landlord, permanent tenure-holder or under-proprietor is in the military, naval or air service of the Government or within three months before the entry in or three months after the cessation of such service: Provided that the provisions of this clause shall not apply—

(a) If, at the time such *khudkasht* is let out, there are several co-sharers in such *khudkasht* and not all of them are in the service of the Government as aforesaid, unless the co-sharers who are not in such service, belong to one or more of the following classes, namely females, minors, lunatics, idiots or persons incapable of cultivation by reason of blindness or physical infirmity; and

(b) beyond the thirtieth day of June next following the expiry of two years after the cessation of such service of the landlord, permanent tenure-holder or under-proprietor, as the case may be."

(8) lands notified by the State Government in accordance with rules to be framed by the State Government for the purpose of *taungya* plantation.

Explanation—For the purposes of this sub-section '*taungya* plantation' means the system of afforestation whereunder the plantation of forest trees according to a scientific system, done in the initial stages simultaneously with the cultivation of agricultural crops which ceases when the young trees begin to form a canopy and make further cultivation of agricultural crops impossible.

31. All tenants other than permanent tenure-holders, fixed-rate tenants, tenants holding on special terms in Oudh, expropriatory tenants, occupancy tenants and hereditary tenants are non-occupancy tenants.

CHAPTER IV

Devolution, Transfer, Extinction, Division, Exchange and Acquisition of Tenancies

Devolution and transfer of tenancies

32. The interest of a permanent tenure-holder and of a fixed-rate tenant is both heritable and transferable.

33. (1) The interest of a tenant holding on special terms in Oudh, of an expropriatory tenant, of an occupancy tenant, of a hereditary tenant, and of a non-occupancy tenant is

*See U. P. Act III of 1946.

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III of
1926.

Non-
occupancy
tenants.

Interest of
permanent
tenure-
holders and
fixed-rate
tenants.
Interest
of other
tenants.

heritable but is not transferable, otherwise than in accordance with the provisions of this Act.

(2) Nothing in the foregoing provisions of this section shall render illegal—

- (a) a sub-lease of a holding as hereinafter provided;
- (b) a sale of the interest of a tenant under the provisions of section 251;

Provided that no person shall be deemed to be a co-tenant, notwithstanding that he may have shared in the cultivation of the holding, unless he was a co-tenant from the commencement of the tenancy, or has become such by succession or has been specifically recognized as such in writing by the landholder.

34. When a permanent tenure-holder, a fixed-rate tenant, an occupancy or an expropriary tenant in Oudh or a tenant holding on special terms in Oudh, dies, the interest in his holding shall devolve in accordance with the personal law to which the deceased was subject.

Succession under personal law in certain cases.

35. When a male tenant other than a tenant mentioned in section 34 dies, his interest in his holding shall devolve in accordance with the order of succession given below:

Succession to a male tenant.

(a) male lineal descendants in the male line of descent:

Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive;

- (b) widow;
- (c) father;
- (d) mother, being a widow;
- (e) step-mother, being a widow;
- (f) father's father;
- (g) father's mother, being a widow;
- (h) widow of male lineal descendant in the male line of descent;
- (i) unmarried daughter;
- (j) brother, being the son of the same father as the deceased;
- (k) daughter's son;
- (l) brother's son, the brother having been a son of the same father as the deceased;
- (m) father's brother;
- (n) father's brother's son.

36. (1) when a female tenant, other than a tenant mentioned in section 34, who either before or after the commencement of this Act has inherited an interest in a holding as a widow, as a mother, as a step-mother, as a father's mother, or, as a daughter dies or abandons such holding, or surrenders such holding or a part of such holding, or, in the case of a tenant inheriting as a widow or as a daughter, marries, such holding or such part of such holding shall, notwithstanding anything in section 45, devolve in accordance with the order of succession laid down in section 35 on the heir of the last male tenant, other than a tenant who inherited, as a father's father under the provisions of that section.

Succession to a female tenant holding an interest inherited as a widow, etc.

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(2) When a tenant, who inherits an interest in a holding as a father's father in accordance with the provisions of sub-section (1) or of section 35, abandons such holding or surrenders such holding or a part of such holding or dies, such holding or such part shall, notwithstanding anything in section 45, devolve upon the nearest surviving heir of the last male tenant, such heir being ascertained in accordance with the provisions of section 35.

Succession
to other
female
tenant.

37. When a female tenant, other than a tenant mentioned in section 34 or section 36 dies, her interest in the holding shall devolve in accordance with the order of succession given below:

- (a) male lineal descendants in the male line of descent: Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive;
- (b) husband;
- (c) unmarried daughter;
- (d) daughter's son;
- (e) brother;
- (f) brother's son.

Passing of
interest by
survivor-
ship.

38. No person shall be deemed to have an interest in a tenancy to which the provisions of section 35, section 36 or section 37 apply merely by reason of being joint in estate with any person with whom a contract of tenancy has been made or who has succeeded to the interest of a tenant or who has become a tenant by operation of law or otherwise; and except in the case of a co-widow or of a co-tenant who dies leaving no heir entitled to succeed under the provisions of this Act, no interest in such tenancy shall pass by survivorship. Where the persons possessing such interest are joint in estate they shall be deemed for the purposes of succession to be tenants in common.

Right to
sub-let.

39. (1) A tenant, other than a tenant of sir or a sub-tenant, may sub-let the whole or any portion of his holding under such restrictions as are imposed by this Act:

Provided that no such sub-letting shall in any way relieve that tenant of any of his liabilities to his landholder.

(2) No tenant of sir and no sub-tenant shall sub-let the whole or any part of his holding.

Restriction
on sub-
letting.

40. (1) No occupancy tenant in Agra, or expropriary tenant or hereditary tenant shall sub-let the whole or any portion of his holding for a term exceeding five years, or within three years of any portion of such holding being held by a sub-tenant.

(2) No non-occupancy tenant shall sub-let the whole or any portion of his holding for a term exceeding one year or within one year of any portion of such holding being held by a sub-tenant.

Upon
from
restrictions
on sub-
letting by
disabled
persons.

41. (1) The restrictions imposed by section 40 on the sub-letting of a holding or portion of a holding shall not apply when the lessor is a female, a minor, a lunatic, an idiot, or a person incapable of cultivating by reason of blindness or physical infirmity* or because he is in the military, naval or air service of the Government.

*See U. P. Act 1 of 1940.

Provided that in the case of a holding held jointly by more persons than one the provisions of this sub-section shall not apply unless either such persons are incapable of cultivating because one or more of them is in the military, naval or air service of the Government or all such persons are of one or more of the remaining descriptions specified therein.

(2) A sub-lease which would be invalid but for the provisions of sub-section (1) shall not remain in force for more than three years after the lessor dies or ceases to come within any of the descriptions specified therein.

*42. [Omitted.]

Registration
of sub-
leases.

Successor
bound by
sub-lease.

*43. When a tenant has sub-let, the successor-in-interest of such tenant shall be bound by the terms of the sub-lease, in so far as they are consistent with the provisions of this Act.

44. (1) Every transfer, other than a sub-lease, made by a tenant in contravention of the provisions of this Act, and every sub-lease made by a tenant of sir, or by a sub-tenant in contravention of the provisions of sub-section (2) of section 39, shall be void.

Transfers
which are
void or
voidable.

(2) Every sub-lease made by a tenant in contravention of the provisions of this Act, other than a sub-lease which is void under sub-section (1), shall be voidable at the option of the landholder.

Extinction of tenancies

45. The interest of a tenant shall be extinguished—

Tenancy
when
extinguish-
ed.

(a) when he dies leaving no heir entitled to inherit, in accordance with the provisions of this Act ;

(b) in land which has been sold in execution of a decree for arrears of rent or from which he has been ejected in execution of a decree or order of a court ;

(c) subject to the provisions of section 82 to 88 by surrender, or by abandonment ;

(d) in land which has been acquired under the provisions of the Land Acquisition Act, 1894 ;

(e) subject to the proviso to section 46, by merger ;

(f) where the tenant has been deprived of possession and his right to recover possession is barred by limitation.

Merger.

46. Where a tenant acquires or succeeds to the entire proprietary right in his holding or where the holder of the entire proprietary right over a holding inherits or otherwise acquires the holding, the tenancy is extinguished :

Provided that if the transaction by which the proprietary right was acquired is afterwards set aside by the order of a competent Court, or if such a right is lost in consequence of the exercise of a right of pre-emption, the tenancy shall revive.

Explanation—In this section the words "proprietary right" include the rights of an under-proprietor, of a permanent lessee and of a permanent tenure-holder.

1 of
1894.

*See U. P. Act X of 1947.

Rights of
sub-tenant
and
mortgagee
on
extinction
of tenant's
interest.

47. (1) Except as otherwise provided in sub-section (3) and sub-section (4) the extinction of the interest of a tenant, other than a permanent tenure-holder or a fixed-rate tenant, shall operate to extinguish the interest of any tenant holding under him.

(2) Subject to the provisions of section 16 of the Land Acquisition Act, 1894, the extinction of the interest of a permanent tenure-holder or a fixed-rate tenant shall not of itself affect the rights of any transferee from such tenant under a valid transfer, but after the transfer all covenants binding and enforceable as between the landholder and the tenant shall be binding and enforceable as between landholder and the transferee. Act I of 1894.

(3) Where, at the time of the extinction by surrender or abandonment of the interest in a holding of a tenant other than a permanent tenure-holder or a fixed-rate tenant there is in existence a valid sub-lease or mortgage of the whole or of a portion of the holding executed before the first day of January, 1902, all covenants binding and enforceable as between the tenant and the sub-tenant or the mortgagee, as the case may be, shall subject to the provisions of sub-section (5) be binding and enforceable as between the tenant's landholder and the sub-tenant or the mortgagee for the remainder of the term of sub-lease or mortgage, or for the lifetime of the tenant, or for ten years, whichever period may be the shortest.

(4) Where, at the time of the extinction by surrender or abandonment, or by death without any heir entitled to inherit such interest, of the interest in a holding of a tenant other than a permanent tenure-holder or fixed-rate tenant, there is in existence a valid sub-lease of the whole or of a portion of the holding, executed on or after the first day of January, 1902, all covenants, binding and enforceable as between the tenant and the sub-tenant shall, subject to the provision of sub-section (5), be binding and enforceable as between the tenant's landholder and the sub-tenant for the remainder of the term of the sub-lease or for five years, whichever period may be the shorter.

(5) In the cases referred to in sub-section (3) and sub-section (4), if the rent payable by the sub-tenant is less than that hitherto payable by the tenant, the sub-tenant shall have the option of vacating the holding, but shall, if he continues in possession, be liable to pay rent at the rate hitherto payable by the tenant.

(6) Nothing in this section shall have the effect of limiting the right of the landholder to have the rent of any holding enhanced under the provisions of Chapter VI of this Act, or to set aside any sub-lease voidable under the provisions of sub-section (2) of section 44.

Rights and
liabilities of
sub-tenants
on
extinction
of sub-
tenancy.

48. When the interest of a sub-tenant is extinguished he shall vacate his holding but shall have in respect of the removal of standing crops and other products of the earth the same rights as the tenant would have upon ejectment in accordance with the provisions of this Act.

Division, Exchange and Acquisition of Holdings

49. (1) A division of a holding shall be accompanied by a distribution of the rent payable in respect of such holding and shall be effected only—

Division of holdings.

- (a) by agreement between the co-tenants ; or
- (b) by the decree in a suit instituted under the section by one or more of the co-tenants against the other or the other :

Provided that no agreement for the division of a holding and the distribution of the rent thereof shall be binding on the landholder unless he agrees thereto in writing.

(2) In any suit under this section the landholder shall be made a party.

(3) A suit for the division of more than one holding may be instituted, provided the parties are the same.

50. A landholder may, in agreement with a tenant, give such tenant land, other than land which is let, in exchange for land included in such tenant's holding and such tenants shall have the same right in the land so received by him in exchange as he had in the land given in exchange.

Rights of tenant in land received in exchange from landholder.

51. (1) Tenants of the same class may agree to exchange land which they hold from the same landlord, under-proprietor, permanent lessee or permanent tenure-holder with his written consent or which they hold from different landlords, under-proprietors, permanent lessee or permanent tenure-holder with the written consent of all such persons.

Exchange of land between tenants.

(2) On exchange the tenants shall have the same rights in the land received in exchange as they had in the land given in exchange.

52. Persons who have exchanged land under the provisions of sub-section (2) of section 9 or of section 10 or of section 50 or section 51 may apply to the assistant collector incharge of the sub-division to have the appropriate entry made in the record of rights.

Entry of exchange in record of rights.

53. (1) A person who wishes to consolidate the area which he cultivates or to build a house or to obtain land to increase the amenities of his house, may apply to the assistant collector incharge of the sub-division to exchange the whole or any portion of the land which he cultivates for land cultivated by another person.

Exchange of land for consolidation of cultivated area, etc.

(2) On receipt of an application under the provisions of sub-section (1) the assistant collector shall, if he is satisfied that reasonable grounds exist, grant such application either in whole or in part, and shall allot to such other person land which is cultivated by the applicant and which is approximately equal in value to [and is of the same quality as] the land received by the applicant.

(3) After orders have been passed under the provisions of sub-section (2) each person shall have in respect of the land which he receives in exchange the same right as he had in the land which he gives in exchange, and the assistant collector shall order that the appropriate entry be made in the record of rights.

[] See U. P. Act, X of 1947.

(4) No order shall be passed under the provisions of this section—

(a) in respect of land cultivated by a non-occupancy tenant, or

(b) for exchange of land between persons unless they are landlords or are under-proprietors, permanent lessees or tenants of the same landholder or stand to one another in the relation of landholder and under-proprietor, permanent lessee.

(5) A landholder, who is not a party to the exchange may file an objection and the court shall consider such objection before passing orders on the application.

(6) Notwithstanding anything in any law for the time being in force if the land allotted in exchange for other land is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and shall attach to such other land or to such part of such other land as may be specified by the assistant collector and thereupon the lessee, mortgagee or other encumbrancer shall cease to have any right in, or against the land from which the lease, mortgage or other encumbrance was transferred.

*54. [Omitted.]

Acquisition
of land by
landlord or
under-
proprietor.

CHAPTER V

General Provisions Relating to Tenancies

Leases and right to measure land

Right to
written
leases and
counter-
parts.

55. (1) On admission to a holding the tenant is entitled to receive from his landholder a written lease consistent with the provisions of this Act and the landholder upon delivering or tendering to a tenant such a lease is entitled to receive from him a counterpart thereof.

(2) Such lease or counterpart shall contain in addition to the name and description of the landholder and of the tenant the following particulars, namely :

(a) the class to which the tenant belongs ;

(b) the area, numbered plots or boundaries of the holding ;

(c) the rent payable in respect of the holding and whether a fixed rent is payable in cash or whether rent is payable by division of the produce or is based on an appraisalment or estimate of the standing crop or varies with crop sown ;

(d) the dates on which and the instalments in which the rent is payable ;

(e) in the case of rent payable in kind, the time, place and manner of appraisalment, division or delivery of the crops ;

(f) in the case of a non-occupancy tenant the term for which the tenancy is to run ; and

(g) any special conditions not inconsistent with the provisions of this Act.

(3) Such lease or counterpart may be in the form given in the Third Schedule.

*Sec. U. P. Act X of 1947.

(4) If the lease or counterpart is not received by the person entitled to receive it under the provisions of sub-section (1), he may bring a suit for such lease or counterpart, as the case may be.

56. A lease for a period exceeding one year or from year to year shall be made by a registered instrument only.

XVI
of
1908.

57. (1) When under the provisions of this Act or the Indian Registration Act, 1908, or any other enactment for the time being in force any lease, counterpart, grant or agreement is required to be made by registered instrument, and such lease, counterpart, grant or agreement—

(a) is with respect to land held by a grove-holder a such or to land let or granted for the purpose of planting a grove, or

(b) relates to a tenancy and stipulates for rent not exceeding one hundred rupees annually, the parties to such lease, counterpart, grant or agreement may, in lieu of registering the same, obtain the attestation thereto of a Revenue court or of a Revenue officer not inferior in rank to a qanungo or such other person as the State Government may, by general or special order in this behalf, appoint and subject to such conditions, if any, as the State Government may, by rules made under this Act, direct.

(2) Such court, officer or other person shall, after satisfying himself as to the identity of the parties and their acquaintance with, and assent to, the term, of the lease, counterpart, grant or agreement, make, sign and date an endorsement thereon to the effect that he has so satisfied himself.

XVI
of
1908.

(3) No such instrument shall be accepted for attestation under this section unless presented within the period prescribed for presentation for registration under Part IV of the Indian Registration Act, 1908.

58. A landholder or his agent may at all reasonable times enter upon any land comprised in his estate or holding and not occupied by buildings, for the purpose of surveying and measuring such land.

Right to
measure
land.

Declaratory suits

59. (1) Any person claiming to be a tenant or a joint tenant may sue the landholder for a declaration that he is a tenant or for a declaration of his share in such joint tenancy.

Suit by
tenant for
declaration
of right or
share.

(2) In any suit under this section any person claiming to hold through the landholder, whether as tenant or otherwise, shall be joined as a party.

60. The landholder may sue any person claiming to be a tenant of a holding for a declaration of the right of such person.

Suit for
declaration
of right of
a person
claiming to
be a tenant.

61. At any time during the continuance of a tenancy either the landholder or the tenant may sue for a declaration as to any of the matters specified in sub-section (2) of section 55.

Suit as to
class of
tenancy,
etc.

Single suit
in respect of
several
holdings.
Dispute
with tenant
whether
land is *sir* or
khudkasht.

62. A suit may be instituted under the provisions of section 59, section 60, or section 61 in respect of a number of holdings, provided that the parties are the same.

63. When land claimed by a tenant as his holding or as being under his cultivation is also claimed by the landholder as being held by him as his *sir* or *khudkasht* either the landholder or the tenant may sue for a declaration of his status.

Provision
for
injunction.

64. If, in the course of a suit under the provisions of any of the last five preceding sections it is proved by affidavit or otherwise—

(a) that any property, trees or crops standing on the land in dispute is in danger of being wasted, damaged or alienated by any party to the suit, or

(b) that any party to the suit threatens or intends to remove or dispose of the said property, trees or crops, in order to defeat the ends of justice, the court may grant a temporary injunction and, if necessary, appoint a receiver.

Improvements

Right of
certain
tenants to
make im-
provements.

65. (1) A permanent tenure-holder, a fixed-rate tenant, an occupancy tenant in Oudh or a tenant holding special terms in Oudh may make any improvement.

(2) An occupancy tenant in Agra, an exproprietary tenant or hereditary tenant may make any improvement, except that he may not make an improvement mentioned in sub-clause (d) or sub-clause (e) of clause (ii) of sub-section (8) of section 3, unless there is a local custom entitling him to do so or he has obtained the written consent of the landholder.

Right of
non-
occupancy
tenant to
make im-
provements.

66. No non-occupancy tenant shall make any improvement unless he has obtained the written consent of his landholder.

Only certain
landholders
to give
consent.

67. No landholder other than a landlord shall give consent to the making of an improvement which he is not himself entitled to make.

Restrictions
on im-
provements.

68. Nothing in this chapter shall entitle a tenant or a landholder to make an improvement on, or detrimental to, any land which is not included in the holding to be benefited by such improvement unless he has obtained the written consent of the landlord or of the mortgagee in possession or of the under-proprietor or of the permanent lessee, as the case may be, and of the tenant, if any, of such land.

Liability
for full
rent.

69. A tenant making an improvement or planting trees, shall in the absence of a written agreement to the contrary continue to be liable to pay the full rent of the holding.

70. A tenant may apply to the landholder for his written consent to the making of an improvement mentioned in clause (i) or sub-clause (d) or sub-clause (e) of clause (ii), of sub-section (8) of section 3, and, except in the case of an improvement mentioned in clause (i) of sub-section (8) of section 3, if the landholder omits or refuses to grant such consent may apply to the assistant collector in charge of the sub-division for permission to make such improvement.

Application for permission when landholder refuses or omits to consent.

71. (1) A landholder may, with the written consent of the tenant, make an improvement on or affecting the holding of a tenant, other than a tenant to whom sub-section (1) of section 65 applies:

Right of landholder to make improvements.

Provided that if the landholder is not the landlord he shall not make any improvement which he is not, under the provisions of this Act, entitled to make:

Provided further that no such written consent shall be required if the tenant is a non-occupancy tenant or if the improvement which the landholder desires to make is a well.

(2) If the tenant omits or refuses to grant such written consent, the landholder may apply to the assistant collector in charge of the sub-division for permission to make the improvement.

(3) A landholder making an improvement on or affecting the holding of any tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of an improvement made by a landholder is to impair the productive powers of any land held by any tenant from such landholder, such tenant shall in addition to any compensation which may be awarded to him under sub-section (3) be entitled to such abatement of his rent as the court considers just.

72. (1) The assistant collector to whom an application is made under the provisions of section 70 or section 71 may, after hearing the parties and making such further inquiry as he thinks fit, grant permission to make the improvement subject to such restrictions, if any, as he may deem reasonable, or may refuse permission:

When permission may be granted or refused by assistant collector.

Provided that the assistant collector—

(a) shall not grant permission for a work which—

(i) is not an improvement as defined in this Act,

(ii) is too costly for the purpose for which it is intended,

(iii) is not improvement which the applicant is entitled to make,

(iv) requires written consent under the provisions of section 68, unless such consent has been previously obtained;

(b) may, in the case of an application made under the provisions of section 70, refuse permission if the other party is prepared to make the improvement within a time fixed by the court and may order that if the improvement is not so made the applicant shall be entitled to make it himself.

*See U. P. Act I of 1940.

(2) An order of the assistant collector granting permission to make an improvement shall be deemed to be the written consent of the landholder or of the tenant, as the case may be, to the making of the improvement in the manner specified in such order.

Compensation for improvement made with landholder's consent or by entitled persons.

73. A tenant who has with the written consent of the landholder made an improvement mentioned in clause (i) of sub-clause (8) of section 3 or who has made any other improvement which he is entitled to make shall be entitled to compensation in the following cases:

(a) when a decree or order of his ejectment is passed; or

(b) when he has been wrongfully dispossessed by his landholder and has not recovered possession of his holding;

Provided that except in the case of an improvement mentioned in clause (i) of sub-section (8) of section 3 compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect:

Provided further that a tenant ejected in execution of a decree passed in a suit for ejectment or in pursuance of a notice of ejectment shall not be entitled to compensation for any improvement begun by him after the date of the institution of the suit or of the application for the issue of the notice which resulted in his ejectment.

Compensation for certain buildings when erected without landholder's consent.

74. A tenant who has made an improvement mentioned in clause (i) of sub-section (8) of section 3 and who has not obtained the landholder's written consent thereto, shall—

(a) be entitled to compensation when he has been wrongfully dispossessed by his landholder and has not recovered possession of his holding; and

(b) when a decree or order is passed for his ejectment, be entitled before the date of delivery of possession, or with the permission of the court and subject to such terms as it may direct before some later date, to sell such improvement to any person with the landholder's written consent or to remove the materials thereof.

Amount of compensation.

75. (1) When under any provision of this Act the court has to determine the amount of compensation due on account of an improvement it shall have regard—

(a) to the amount by which the value or the produce of the holding or the value of that produce is increased by the work;

(b) to the condition of such work, and the probable duration of its effects;

(c) to the labour and capital required for the making of such work allowing for—

(i) any reduction or remission of rent or any other advantage allowed to the tenant by the landholder in consideration of the work;

(ii) any assistance given to the tenant by the landholder in money, material or labour; and

(iii) in the case of a reclamation or of the conversion of unirrigated to irrigated land, the length of time during which the party claiming compensation has had the benefit of the improvement.

(2) when an improvement benefits the land from which a tenant has been ejected or wrongfully dispossessed and also other land in his possession, compensation shall be determined with reference to the extent to which the first-mentioned land has benefited by such work.

76. (1) If a tenant has made an improvement on land which is sold in execution of a decree for arrears of rent, or from which he is ejected, the purchaser or the landholder, as the case may be, shall become the owner of the work, but the tenant shall be entitled to the benefit of the work in respect of the land remaining in his possession to the same extent and in the same manner as it has hitherto benefited thereby.

Works benefiting other land.

(2) If a tenant has made an improvement on land which remains in his possession after a portion of his land has been sold in execution of a decree for arrears of rent or after he has been ejected from a portion of his land, the purchaser or the landholder, as the case may be, shall be entitled to the benefit of such work in respect of the land which does not remain in the possession of the tenant to the same extent and in the same manner as it has hitherto benefited thereby.

(3) If a landholder has executed a work which benefits the holding of a tenant and the whole or any portion of such holding is sold in execution of a decree for arrears of rent, the purchaser shall be entitled to the benefit of such work in respect of the land sold to the same extent and in the same manner as such land has hitherto benefited thereby.

77. (1) If either the landholder or the tenant desires that the amount expended on an improvement executed with the permission of the assistant collector in charge of the sub-division under the provisions of section 72 should be determined, the assistant collector in charge of the sub-division shall on application made to him for the purpose, and after due notice to the other party, determine the amount of the outlay and enter it in register kept in the prescribed form.

Registration of outlay on improvement.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings between the parties to the application or their successor-in-interest respecting the cost of the work.

78. When a court has assessed the amount of compensation due to a tenant it may, if both the landholder and the tenant desire that the compensation assessed instead of being paid wholly in money shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed between them.

Compensation by agreement.

79. If a question arises between a tenant and his landholder—

Dispute as regards improvement, how settled.

(a) as to the right to make a work, or

(b) as to whether a particular work is an improvement, or

(c) as to the amount of compensation due under sub-section (3) or of abatement of rent under sub-section (4) of section 71, or

(d) as to the right to the benefit of an improvement under section 76,

the assistant collector in charge of the sub-division shall, on the application of either party, decide the question.

Trees

Right of
tenants to
plant trees.

80. (1) A tenant, other than a non-occupancy tenant may plant trees on his holding.

(2) If a tenant plants, or proposes to plant, trees in such a way as to diminish the value of land not included in his holding any person, whose consent is required under the provisions of section 68, may apply to the assistant collector in charge of the sub-division for an order prohibiting the planting of trees on certain land or directing the tenant to remove trees already planted thereon and the assistant collector may, after hearing such of the parties as wish to be heard, either grant the application subject to such modification, if any, as he thinks fit or reject it.

Tenant's
rights in
trees
existing
at the
commence-
ment of the
Act.

81. (1) Notwithstanding anything in this Act or any custom or contract to the contrary, scattered trees situated on the holding of a tenant other than a sub-tenant or tenant of *sir* otherwise than on the boundary thereof and existing at the commencement of this Act, shall vest in such tenant, provided that such tenant has been continuously in possession of such holding from the beginning of the agricultural year 1335 *Fashi*.

(2) If any question arises between a landholder and a tenant regarding the ownership of trees it shall, on the application of either party be decided by the assistant collector in charge of the sub-division.

Surrender and abandonment

Surrender
by tenant.

82. (1) A tenant not bound by a lease or other agreement for a fixed period to continue to occupy the land in the following year, may, at the end of any agricultural year, surrender his holding, by sending a registered notice to his landholder intimating his intention to do so and by giving up possession thereof whether such holding is or is not sub-let or mortgaged, but he shall not be entitled to surrender a portion only of his holding unless—

(a) the holding is situated in an alluvial mahal for the time being registered as such under the rules made under clause (k) of section 234 of the United Provinces Land Revenue Act, 1901, and a part of the holding has been washed away or rendered unculturable by fluvial action;

U. P.
III of
1901.

or
(b) the holding is situated in an alluvial mahal as aforesaid, or in a tract notified by the State Government under the provisions of sub-section (4) of section 30 and the rent thereof has been agreed or fixed with reference to the amount of land actually cultivated in each year:

Provided that an expropriary tenant shall not surrender his holding or any part thereof until the expiry of a period, which, if his rights accrued on a mortgage, shall be three years and, in other cases, six months, from such accrual.

(2) Notwithstanding such surrender, unless the tenant sends such registered notice before the first day of April he shall be liable to the landholder for the rent of the holding for the agricultural years next following the date of the surrender:

Provided that the tenant shall not be so liable in respect of any period during which the holding is let to another tenant, or is taken into his own cultivation or use by the landholder.

(3) Subject to the provisions of the proviso to sub-section (1) nothing in this section shall affect any arrangement by which a tenant and his landholder may agree to the surrender of the whole or any portion of a holding.

83. Notwithstanding anything in the last preceding section when a decree or order for the enhancement of the rent of any holding is passed, and the tenant thereof within thirty days of the date of such decree or order gives to the landholder a registered notice in writing of his desire to surrender such holding at the date on which enhancement takes effect, and surrenders such holding accordingly, he shall not be liable for the rent payable for such holding in respect of any period subsequent to such surrender.

Surrender
on enhance-
ment.

84. Any tenant, instead of or in addition to himself sending a registered notice to the landholder under section 82 or section 83, may, before the expiry of the period prescribed for sending such notice, make an application to the tahsildar who shall thereupon cause the notice to be served on such landholder, the tenant paying the cost of the service.

Notice
through
tahsildar.

85. (1) When any such notice has been received by or served on a landholder he may institute a suit to have such notice declared invalid and the court shall thereupon determine the question between the parties.

Suit to set
aside notice.

(2) If the landholder does not institute such suit he shall be deemed to have accepted the surrender.

86. Subject to the provisions of section 36 a landholder may enter upon and take possession of a holding or a part of a holding surrendered in accordance with the provisions of the Act.

Taking
possession
of holding
surrendered.
Abandon-
ment.

87. (1) Subject to the provisions of sub-sections (2) and (3), a tenant who ceases to cultivate and leaves the neighbourhood shall not lose his interest in his holding if he leaves in charge thereof a person responsible for payment of the rent as it falls due and gives written notice to the landholder of such arrangement.

(2) If the person so left in charge is a person—

(a) on whom, in the event of the tenant's death, the tenant's interest would devolve, or

(b) who is to manage the holding for the benefit of the person on whom in the event of the tenant's death the tenant's interest would devolve, the tenant shall, on the expiry of a period of five years, lose his interest in his holding unless he, within such period, resumes cultivation thereof, and such interest shall devolve on the person on whom the tenant's interest would devolve in the event of his death.

(3) If the person so left in charge is not a person mentioned in sub-section (2), the tenant shall, on the expiry of the period for which he could have sub-let, be presumed to have abandoned his holding unless within such period he resumes cultivation thereof.

(4) A tenant who ceases to cultivate and leaves the neighbourhood otherwise than in accordance with the provisions of sub-section (1), shall be presumed to have abandoned his holding.

*See U. P. Act I of 1940.

Notice
through
tahsildar.

88. Subject to the provisions of section 36, where a tenant is presumed to have abandoned his holding the landholder shall file a notice in the office of the tahsildar stating that he wishes to treat the holding as abandoned and is about to enter on it accordingly and the tahsildar shall cause such notice to be served or to be published in such manner as the Board by rule direct, and after the expiry of a period of fifteen days from the date of the service of such notice or of the publication thereof the landholder may enter upon the holding and let it to another tenant or take it under his own cultivation.

*88 A. A person claiming to be a tenant of an abandoned holding or any part of such holding may in any legal proceeding take the plea of abandonment by the previous tenant.

Application
of section
183 to
abandon-
ment cases.

89. A landholder who enters upon a holding in contravention of the provisions of section 88 shall be deemed to have ejected the tenant otherwise than in accordance with the provisions of this Act within the meaning of section 183.

Premia, forced labour and cesses

Taking a
premium or
making
service a
condition of
tenancy
prohibited.
Illegal
cesses.

90. No landholder shall take a premium for the admission of a tenant to holding and it shall not be a condition of any tenancy that the tenant shall render any service to or do any work for the landholder, whether for wages or not.

91. (1) Notwithstanding that a cess has been recorded under the provisions of section 56 or section 86 of the United Provinces Land Revenue Act, 1901, no cess which is levied in accordance with village custom, other than a payment in kind which forms part of the rent payable for a holding, shall, after such date as may be notified by the State Government in the official *Gazette*, be recoverable in any Civil or Revenue court unless such cess is sanctioned under the provisions of sub-section (2).

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(2) The State Government may sanction the collection of any cess levied on account of any bazar or fair and may impose on the collection of such cess any such condition regarding conservancy, police or other establishment as it thinks fit.

(3) The State Government may, in case of doubt, declare whether any payment is a cess to which the provisions of sub-section (1) or sub-section (2) apply.

(4) A landlord may apply to the collector, that at the last revision of settlement the assessment of revenue on his land was based on the payment to him of cess which are declared in this section to be irrecoverable, and on receipt of such application the collector shall, with the approval of and in accordance with rules made by the Board, remit such portion of the land revenue payable by the applicant as he finds to have been assessed on account of such cesses.

CHAPTER VI

DETERMINATION AND MODIFICATION OF RENT

General provisions as to rent

Initial rent
of tenant.

92. A tenant on being admitted to the occupation of land is liable to pay such rent as may be agreed upon between him and his landholder.

*See U. P. Act X of 1947.

93. The rent or rate of rent payable by a tenant shall be presumed to be the rent or rate of rent previously payable by him until it is varied in accordance with the provisions of section 98.

Presumption as to rent.

94. (1) When no rent has been fixed and any person has been admitted to the occupation of land, or permitted to retain possession of land by anyone having a right to admit or permit him with the intention that a contract of tenancy should thereby be effected, or becomes a hereditary tenant under the provisions of this Act, either he or the person entitled to admit or permit him may at any time during the period of occupation or within three years after the expiry of such period sue to have rent fixed thereon, and, subject to the law of limitation as to arrears of rent, for a decree for arrears of such rent.

Suit for determination and for arrears of rent.

(2) In a suit under sub-section (1) the rent decreed shall be the rent payable in the year previous to the year of admission, permission or accrual of hereditary rights, as the case may be, or if no rent was payable in such year, the rent shall be fixed in accordance with the provisions of this chapter.

95. Where a tenant is ejected from a part only of his holding under a decree or order of a court, or, being entitled to surrender a part of his holding, legally surrenders such part, either he or his landholder may at any time apply to the court in which a suit for ejectment would lie for the determination of the rent of the remainder.

Determination of rent on partial ejectment on surrender.

96. (1) Save as provided in section 126 of this Act and in section 87 of the United Provinces Land Revenue Act, 1901, when the rent of an expropriary, an occupancy or a hereditary tenant or of a tenant holding on special terms in Oudh has been agreed upon, fixed, commuted, abated or enhanced in accordance with the provisions of this Act, the Agra Tenancy Act, 1926, the Oudh Rent Act, 1886, or the United Provinces Land Revenue Act, 1901 it shall not be liable to enhancement or abatement until or unless—

Period for which rent is not liable to modification.

- (a) a period of ten years, or such longer period as may have been decreed or ordered, has elapsed; or
- (b) the period of the settlement of the local area in which the holding is situated has come to an end; or
- (c) the area of the tenant's holding has been increased by alluvion or decreased by diluvion or encroachment or by the taking up of land for a public purpose or for a work of public utility, or under the provisions of section 54, or

(d) the productive powers of the land held by the tenant have been increased by fluvial action, or by an improvement effected by or at the expense of the landholder, or decreased by an improvement made by the landholder or by any cause beyond the control of the tenant.

(2) Where the rent has been varied merely on any of the grounds mentioned in clauses (c) and (d) of sub-section (1) such variation shall not be considered in computing the period mentioned in clause (a) of that sub-section.

97. If the rent of a non-occupancy tenant, not being tenant of *sir* or a sub-tenant, is enhanced under the provisions of this Act, the tenant shall be entitled to hold the land

Effect of enhancement of rent of non-occupancy

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of
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1901.

tenant
under the
Act.

Method of
varying
rent.

Saving of
enhance-
ment or
abatement
under the
Northern
Indian
Canal and
Drainage
Act.
Restriction
on
institution
of suits for
variation of
rent.
Rent how
calculated
for
commuta-
tion, etc.
of rent.

Basis of
variation of
rent in
certain
cases.

at the enhanced rent for a term of not less than five years from the beginning of the agricultural year in which such enhancement takes effect.

98. Subject to the provisions of this Act, the rent of a tenant may be fixed, commuted, abated or enhanced only—

(a) by registered agreement;

(b) by decree or order of a Revenue court; or

(c) by a compromise filed in a suit or proceeding, provided that such compromise is filed in the court which is competent to fix, commute, abate or enhance the rent.

99. Nothing in this Act shall bar the right of a tenant to abatement of rent under section 11 of the Northern India Canal and Drainage Act, 1873, or the right of a landholder, to enhancement of rent under section 12 of that Act.

VIII
of
1873.

100. Notwithstanding anything in this chapter when a local area is under settlement, no suit for determination, commutation, abatement or enhancement of rent shall be maintainable under this Act until the time for making applications to the settlement officer under section 87 of the United Provinces Land Revenue Act, 1901, has passed.

101. (1) Subject to the provisions of section 102, section 103, section 111 and section 126, in a suit in which rent is to be commuted, determined, abated or enhanced the court shall calculate the rent—

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(a) in the case of occupancy tenants in accordance with the rates sanctioned for occupancy tenants;

(b) in the case of exproprietary tenants, and of tenants holding on special terms in Oudh, in accordance with rates which shall be less than the corresponding rates sanctioned for occupancy tenants by two annas in the rupee;

(c) in the case of hereditary and non-occupancy tenants, in accordance with the rates sanctioned for hereditary tenants;

Provided that in suits for the abatement of rent of sub-tenants or tenants of *sir* the sanctioned rates shall be deemed to have been increased by thirty-three and one third per cent.:

Provided further that for special reasons to be recorded, the court may modify the rates applicable to any particular case.

(2) When rent, which is payable partly in cash and partly in kind, is abated or enhanced under the provisions of subsection (1) the court shall not alter that portion of the rent which is payable in kind and shall abate or enhance that portion of the rent which is payable in cash, so that the amount of rent payable by the tenant, including the value, as determined by it, of that portion of the rent which is payable in kind, shall be equal to the rent that would have been payable by the tenant if his rent had been payable wholly in cash:

Provided that, if it sees fit, the court may order that the rent shall be payable wholly in cash.

102. (1) In any proceedings for abatement or rent on the ground that the area of the holding has been decreased by diluvion or encroachment or the taking up of land for a public purpose or a work of public utility or under the provision

of section 54 or for enhancement on the ground that the area of the holding has been increased by alluvion, the court shall determine the rent with reference to the existing rent and the decrease or increase in the area of the holding.

(2) In any proceedings for enhancement of rent on the ground that the productive powers of the holding have been increased by fluvial action or by an improvement effected by or at the expense of the landholder, or for abatement of rent on the ground that such powers have been decreased by an improvement made by the landholder or by any cause beyond the control of the tenant, the court shall determine the rent with reference to the existing rent and the increase or decrease of the productive powers.

(3) In an application for the determination of the rent of a portion of a holding under section 95, the court shall determine the rent with reference to the rent payable before ejectment or surrender and the loss of area due to such ejectment or surrender.

(4) In a suit for abatement of rent of an under-proprietor or of a permanent lessee on a ground specified in the lease, agreement or decree, under which he holds, the court shall determine the rent in accordance with the terms of such lease, agreement or decree.

103. In any district, part of a district or local area for which rent-rates have not been determined, the court shall decide any question relating to the commutation, determination, abatement or enhancement of rent after making a local inspection and considering the rent generally payable by tenants of the same class for land of the same class in the vicinity.

Rent-rates and appointment of rent-rate officer.

104. In any district, part of a district, or local area for which rent-rates have been determined, the sanctioned rates for the purposes of this Act shall be—

- (a) the rates determined at the latest settlement or the latest revision of settlement made under the United Provinces Land Revenue Act, 1901; or
- (b) the rates determined under the Agra Tenancy Act, 1926, or the Oudh Rent Act, 1886, as the case maybe; or
- (c) the rates determined under the provisions of this Act, whichever are the latest.

105. (1) If the rent-rates referred to in section 104 do not distinguish between occupancy and non-occupancy or statutory tenants, such rates shall be deemed to be sanctioned rates for both occupancy and hereditary tenants.

(2) If the rent-rates referred to in sub-section (1) distinguished between occupancy and non-occupancy or statutory tenants, the rates sanctioned for either non-occupancy or statutory tenants shall be deemed to be sanctioned rates for hereditary tenants.

U. P. 106. Notwithstanding anything to the contrary in the United Provinces Land Revenue Act, 1901, the State Government may, by notification in the official *Gazette*, order that rent-rates shall be determined for any specified district or part of a district or local area, whether by revision of the most

Procedure when rent-rates not determined.

Rent-rate applicable

Provision of rent-rates did or did not distinguish between occupancy, non-occupancy and statutory tenants.

Order for determining rent rates.

recent rent-rates or otherwise, and may appoint an officer having powers not less than those of an assistant collector of the first class, hereinafter called a rent-rate officer, to propose rent-rates for occupancy and hereditary tenants in accordance with the provisions of this Act and with rules made by the Board.

Duration of
rent-rates.

107. When rent-rates have been determined under the provisions of this Act for any district, part of a district or local area they shall not again be determined until a period of 20 years has elapsed, or the term of settlement of such district, part of a district or local area has expired ;

Provided that the State Government may order the determination of rent-rates at an earlier date on the ground that there has been a substantial rise or fall in the price of agricultural produce or of any particular form of produce ;

Provided further that the State Government may postpone determination of rent-rates for such period as it may deem fit either on the ground that there has been no substantial rise or fall in the price of agricultural produce or on grounds of administrative convenience.

Additional
powers of
rent-rate
officer.

108. (1) In addition to proposing rent-rates according to the provisions of this Act the rent-rate officer shall, if so empowered by State Government, decide suits for the determination, commutation, abatement and enhancement of rent in accordance with the provisions of this Act.

(2) Such suits may be instituted in this court within such period as may be fixed by him with the sanction of the Board.

Procedure in determining rent-rates.

Circles and
soil
classification.

109. (1) If the local area has previously been divided into assessment circles under the United Provinces Land Revenue Act, 1901, the rent-rate officer shall propose separate rates for each circle and for each separate class of soil previously demarcated therein unless by order of the Board the circles or the classification of soils, or both are revised by him.

(2) If a local area has not been so divided into assessment circles or if a classification of the soil thereof has not been so made or if the Board order a revision of the existing circles, or soil classification or both, the rent-rate officer shall make circles and classify the soils in the manner prescribed by section 63 of the United Provinces Land Revenue Act, 1901, and by rules made under section 62 of that Act, and shall propose rates of each class of soil in each circle.

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Basis of
rates for
hereditary
and
occupancy
tenants.

110. (1) The rates proposed by the rent-rate officer for hereditary tenants shall be such as will result in rents payable without hardship over a series of years by cultivating hereditary tenants with substantial holding and shall be based on genuine and stable rents paid by such tenants.

(2) In considering whether the genuine and stable rents paid by such tenants are payable without hardship over a series of years the rent-rate officer shall have regard to and compare—

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(a) the level of rents paid by tenants who held or were admitted to land at different times and in particular the

level of rents agreed to by tenants who were admitted to holdings in or between the years 1309 *Fasli* and 1313 *Fasli*;

(b) the prices of agricultural produce prevailing at such times ;

(c) changes in the crops grown and in the amount of the produce ;

(d) the value of the produce with a view to seeing that the valuation of the holdings of hereditary tenants at the proposed rates does not exceed one-fifth of such value ;

(e) the expenses of cultivation, and the cost to the cultivator of maintaining himself and his family.

(3) In proposing rates for occupancy tenants in Agra the rent-rate officer shall have regard to the rates which he has proposed for hereditary tenants, and also the rents actually paid by occupancy tenants, distinguishing between holdings of old and of recent standing. In Oudh the rates proposed for occupancy tenants shall be two annas in the rupee less than the corresponding rates for hereditary tenants.

(4) The rent-rate officer shall also record for each village whether the rates proposed by him are applicable without modification or the extent to which they require modification either for the village as a whole or for a specified area or class of soil therein and in their application to such village area, or class the rates shall be deemed to be modified accordingly.

111. The rent-rate officer shall not propose rates for other classes of tenants but—

(i) in tracts of unstable and shifting cultivation he may propose modified rates for non-occupancy tenants;

(ii) he may, and when the greater part of the rent of a village is paid in kind shall, propose rates for the commutation of such rents.

Provision
for rates in
special
cases.

112. (1) The rent-rate officer shall publish in such manner as may be prescribed the proposals and records made by him under section 110 and section 111 and shall receive and consider any objections which may be made to them.

(2) When such objections, if any, have been considered and disposed of according to the prescribed procedure the rent-rate officer shall submit the proposals and records made by him after such modification, if any, as he may think fit to the Board.

(3) On receipt of the proposals and records submitted by the rent-rate officer under sub-section (2), the Board may direct further inquiry into any of the matters contained therein.

(4) The Board shall either sanction the proposed circles, soil classifications, rent-rates and other matters recorded under section 110 and section 111 or may, for reasons to be recorded, sanction them with such modification as they think fit and the rates so sanctioned shall be sanctioned rates.

Procedure
in
publishing
and
sanctioning
rent-rates.

Commutation, abatement and enhancement of rent

113. Where rent has heretofore been paid in kind, or based on an estimate or appraisal of the standing crop, or on rates varying with the crop sown or partly in one or such ways and partly in another or other of such ways, the landholder

Commuta-
tion of rent.

or the tenant may use for the commutation of such rent to a fixed money rent and the court shall decree the suit unless in a case in which the landholder is the plaintiff, on a plea by the tenant that the cultivated area or the produce of the holding is exceptionally liable to fluctuation by reason of damage by wild animals, flooding, and the like, it considers that commutation is undesirable, in which case it shall dismiss the suit.

Grounds of
abatement
of rent.

114. The rent of a tenant, other than a permanent tenure holder, or a fixed-rate tenant, shall be liable to abatement under this Act on one or more of the following grounds only:

(a) that the rent payable by the tenant is substantially greater than the rent calculated at the sanctioned rates appropriate to him; or

(b) that the productive powers of the land held by the tenant have been decreased by the improvement made by the landholder or by any cause beyond the tenants' control during the currency of the present rent; or

(c) that the area of his holding has been decreased by diluvion or encroachment or by the taking up of land for a public purpose or for a work of public utility; or

(d) that the rent is liable to abatement on some ground specified in a lease, agreement or decree under which he holds.

Abatement
of rent of
fixed-rate
tenants.

115. The rent of a fixed-rate tenant shall be liable to abatement only on one of the grounds mentioned in clause (c) of section 114.

Abatement
of rent of
under-
proprietor
and
permanent
lessee.

116. The rent of an under-proprietor, other than an under-proprietor who holds a sub-settlement and of permanent lessee, other than a permanent lessee of a whole mahal or patti, shall be liable to abatement only on one of the ground mentioned in clause (c) of section 114 or on some ground specified in the lease, agreement or decree under which he holds.

Grounds of
enhance-
ment
of rent.

117. The rent of a tenant, other than a permanent tenure holder of a fixed-rate tenant, shall be liable to enhancement under this Act on one or more of the following grounds only:

(a) that the rent payable by the tenant is substantially less than the rent calculated at the sanctioned rates appropriate to him; or

(b) that the productive powers of the land held by the tenant have been increased by fluvial action; or

(c) that the productive powers of the land held by the tenant have been increased by an improvement effected by or at the expense of the landholder; or

(d) that the area of the tenant's holding has been increased by alluvion.

Enhance-
ment of rent
of fixed-rate
tenant.

118. The rent of a fixed-rate tenant shall be liable to enhancement only on the ground specified in clause (d) of section 117.

Limits to
enhance-
ment of
rent.

119. (1) The rent of a tenant shall not be enhanced by more than one-fourth of his existing rent, subject to the condition that the rent fixed shall in no case be less than three-quarters of the rent calculated at the appropriate sanctioned rates.

(2) This section shall not apply to a decree or order of a court for enhancement of rent on account of an increase in area.

(3) In decreeing an enhancement of rent, if the enhancement is not less than one-fourth of the existing rent, and if the court considers that the immediate enforcement of the decree to its full extent will be attended with hardship to the tenant, the court may direct that the enhancement shall take effect by yearly increments extending over any number of years not exceeding three.

120. If a tenant who is sued for enhancement of rent proves that the whole or any portion of the enhancement decreed is due to an improvement which was made by him within the last thirty years and which he was entitled to make, the court shall pass a decree only for such enhancement, if any, as it might have decreed if the tenant had made no improvement.

121. Subject to the provisions of sub-section (4) of section 126 every decree, compromise or registered agreement for the determination, abatement enhancement or commutation of rent shall take effect from the commencement of the agricultural year next following that in which the suit was instituted or the agreement was registered unless in the case of a decree the court for reasons to be recorded directs, or unless in the case of compromise or a registered agreement the compromise or agreement provides that it shall take effect from some later date.

122. (1) A suit for commutation, abatement, or enhancement of rent may be instituted against or by any number of expropriatory, occupancy, hereditary or non-occupancy tenants collectively:

Provided that all such tenants are tenants of the same landholder and all the holdings in respect of which the suit is instituted are situated in the same mahal and village.

(2) No decree shall be passed in any such suit affecting the interest of any person, unless the court is satisfied that he has had an opportunity of being heard.

(3) The decree shall specify the extent to which each of the holdings is affected thereby.

Relief in agricultural calamities

123. (1) On the occurrence of an agricultural calamity affecting the crops of any mahal or portion of a mahal the State Government or any authority empowered by it in this behalf may, in accordance with the provisions of the Sixth Schedule, remit or suspend for any period the whole or any portion of the rent of any holding affected by such calamity whether such holding is held in mediately from the landlord.

(2) When the State Government or any authority empowered by it in this behalf, remits or suspends rent under the provisions of sub-section (1) it shall in accordance with the provisions of the Sixth Schedule remit or suspend for a like period the whole or a portion of the revenue assessed on such mahal.

124. (1) An order passed under section 123 shall not be questioned in any civil or revenue court.

(2) No suit or application shall lie for the recovery of any sum the payment of which has been remitted under the provisions of section 123 or, during the period of suspension,

Tenant's
plea in
enhance-
ment suit.

Decree or
agreement
in suits for
determi-
nation, etc.
of rent
when to
take effect.

Joinder of
parties in
suit relating
to variation
of rent.

Remission
or
suspension
of rent in
natural
calamities

Finality of
order under
the
preceding
section.

of any sum the payment of which has been suspended under the provisions of that section.

Period of suspension to be excluded in computing period of limitation.

123. When the payment of any sum has been suspended in accordance with the provisions of section 123 the period during which the suspension continues shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of such sum.

Extraordinary and emergency provisions

Revision of rent and revenue when there is a sudden rise in prices or in an emergency.

126. (1) Notwithstanding anything in this Act or in any other enactment for the time being in force, when the State Government is satisfied that owing to some extraordinary cause there has been a sudden and substantial rise in the price of agricultural produce or that an emergency has arisen within any specified area or areas, it may with the previous approval of both Houses of Legislature, by notification in the official *Gazette*, appoint to such area or areas an officer having powers not less than those of an assistant collector of the first class and invest him with all or any of the following powers:

- (a) The powers of a rent-rate officer under this Act.
- (b) Power to fix, commute, abate or enhance rents in accordance with the sanctioned rent-rates.
- (c) Power in an emergency to abate rents summarily otherwise than in accordance with such rent-rates.

(2) An officer invested with powers under this section may be invested with them generally or with reference to specified cases or classes of cases and shall have all the powers of a record officer under Chapter IV of the United Provinces Land Revenue Act, 1901.

(3) Nothing in this section shall apply to the rents payable by permanent tenure-holders or fixed-rate tenants.

(4) Every order settling or commuting rent under this section shall take effect from such date not preceding the beginning of the agricultural year next following the year in which the order was passed as the officer passing it may direct.

(5) The State Government shall invest the officer appointed under this section with the powers of a settlement officer under Chapter V of the United Provinces Land Revenue Act, 1901, for the purpose of revising the revenue assessed on any mahal in which rents have been settled or commuted under this section.

(6) If as a result of the proceedings of the officer appointed under this section the assets of a mahal, calculated in accordance with the provisions of the United Provinces Land Revenue Act, 1901, are increased or decreased such officer shall increase or decrease, as the case may be, the land revenue of such mahal in the proportion which such increased or decreased assets bear to the assets before such increase or decrease was made.

(7) An appeal against an order of the officer appointed under this section fixing, abating, enhancing or commuting rent shall lie to the commissioner.

(8) Except as provided in sub-section (7) no order under this section shall be questioned in any civil or revenue court.

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*126-A. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force when the State Government is satisfied that an emergency has arisen in any area in the Uttar Pradesh for bringing under cultivation land which is not grove-land which has not been previously cultivated or, if previously cultivated, has remained uncultivated for more than one year, it may, by notification in the official *Gazette*, declare the date from which and the period for which the provisions of this section shall be in operation in such area.

Utilization
of land in
an emer-
gency.

(2) When a declaration under sub-section (1) has been made in respect of any area, the Collector may, by means of a written notice, call upon the landholder of any such land situated within such area, to let out for cultivation, within six months from the date of the service of such notice, such land in the manner and order of preference prescribed in the rules made by the Board in this behalf. Copies of the notice shall be affixed to the village *chaupal* or other public places in the village. If the landholder satisfies the Collector that he has so let out the land, the provisions of sub-section (3) of section 4 shall apply to a contract entered into between him and the tenant in respect of such land. In such proceedings, the Collector shall consider the claims, if any, put forward by a person claiming preference to satisfy himself whether the landholder has actually let out the land in accordance with the rules. If the landholder shows to the satisfaction of the Collector within one month from the date of the notice that the land is not capable of being utilized for agricultural purposes or that it is already being properly utilized, the Collector shall cancel the notice:

Provided that where such land is in the possession of thekadar, the Collector shall issue notice to both the thekadar and the landlord:

Provided also that the Collector may suspend the notice, if he is satisfied that the landholder is making arrangements for the proper utilization of the land within the agricultural year next following the date of the notice; and if the whole or any part of the land is so utilized within the time, the notice remains suspended, the Collector shall cancel the notice in respect of the whole or part of the land so utilized:

Provided further that no notice shall be issued under this sub-section in respect of any land which was being used on or after the first day of January, 1940 as pasture land, threshing floor, irrigating tank or for some other purpose for the benefit of the public or a section of the public.

(3) If the notice is neither complied with, nor cancelled under sub-section (2), the Collector shall in accordance with the rules mentioned in sub-section (2) let out such land to a tenant on a rent to be determined in accordance with the provisions of this Act, and the tenant to whom such land is let out shall be liable to pay such rent direct to the landholder and shall, subject to the provisions of section 30, become a hereditary tenant of such land.

*See U. P. Act X of 1947.

CHAPTER VII

PAYMENT AND RECOVERY OF RENT

General

Application
of the
chapter to
under-
proprietors,
etc.
Hypotheca-
tion of
produce
towards
payment of
rent.

127. In this Chapter "tenant" includes an under-proprietor and a permanent lessee.

128. (1) The produce of every holding in the cultivation of a tenant and the fruit of every tree which stands on such holding and which is the property of such tenant shall be deemed to be hypothecated for the rent payable in respect of such holding by such tenant and by every person, other than a thekadar, intermediate between such tenant and the landlord; and, until the demand for such rent has been satisfied no other claim on such produce or fruit shall be enforced by sale in execution of a decree of a civil or revenue court, or otherwise.

(2) Nothing in this section shall be deemed to affect the provisions of sections 2 to 4 of the Bengal Indigo Contracts Regulation, 1823, or of section 11 of the Opium Act, 1857, or of section 141 of the United Provinces Land Revenue Act, 1901.

Reg.
VI of
1823.
XIII
of
1857.
U. P.
III of
1901.

Presump-
tion as to
payment by
tenant.

129. Any payment made by a tenant from whom rent is due to the landholder to whom it is due shall, in the absence of evidence of a contrary intention on the part of the tenant, be deemed to be a payment on account of rent.

Application
of rent
payment.

130. (1) A payment made by a tenant to his landholder, whether in satisfaction of a decree or otherwise, shall not be applied to the discharge of an arrear the recovery of which is barred by the law in force for the time being as to the limitation of suits and applications.

(2) Subject to sub-section (1), when a tenant makes payment on account of rent to his landholder with express intimation that he wishes the payments to be credited to any year, instalment, or holding, the payment, if accepted, shall be credited accordingly, and if the tenant makes no such intimation the landholder shall credit the payment to an earlier arrear in preference to a later arrear and, where more than one arrears is of the same date, to a smaller arrear in preference to a large arrear.

Rent how
payable.

(3) Where the tenant makes a payment in respect of a decree passed under the provisions of sub-section (2) of section 150 without intimating that the payment should be credited to the amount due in respect of any particular holding the payment shall be appropriated in such manner as to save as many holdings as possible for the tenant.

131. A payment of a money rent may be made by the tenant to the landholder either direct or by postal money order or by deposit in accordance with the provisions of section 137:

Provided that the acceptance by a landholder of a sum paid by postal money order or by deposit in court shall not by itself or by virtue of any thing written on the money order coupon be deemed to constitute an admission by him as to the amount

of rent payable or due on account of any particular year, instalment or holding, or an admission of the payer as a tenant.

132. Where rent is sent by postal money order, in the case of acceptance, the payee's receipt and in the case of refusal the endorsement of such refusal; on the money order duly stamped by the post office shall be admissible in evidence without formal proof and shall until the contrary is proved be presumed to be a correct record of such acceptance or refusal.

Presumption as to money-order acknowledgment.

133. (1) Every tenant lessee or licensee who makes a direct payment on account of rent or sayar shall be entitled to obtain forthwith from the landholder a written receipt for the amount so paid, signed by the landholder or his duly authorized agent.

Right of tenant to receipt.

(2) The landholder shall from a book printed under the provisions of section 136 give a separate receipt for each sum paid on account of rent or sayar and shall prepare and retain a counterfoil of each receipt given by him.

(3) If in any suit or proceeding between a landholder and a tenant in which the payment of rent is in issue the landholder does not produce or, when ordered by the court to produce, fails to produce, such receipt book the court may make any presumption against the landholder which it considers reasonable.

134. (1) The receipt and counterfoil shall specify the following particulars, namely:

Particulars of valid receipt.

- (a) the names of the payer and the payee;
- (b) the name of the village with mahal and patti;
- (c) the amount paid;
- (d) whether the payment is on account of rent or sayar;
- (e) where there is more than one holding, an indication of the holding towards the rent of which the payment has been credited;
- (f) the year and instalment to which the payment has been credited;
- (g) whether the payment has been accepted as payment in full, or only on account; and
- (h) the date on which the payment is made.

(2) If a receipt does not contain substantially the particulars required by this section, or if a joint receipt for rent and sayar has been given in contravention of sub-section (2) of section 133 it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent and for sayar up to the date on which the receipt was given.

135. The tenant shall in accordance with rules made by the Board be entitled, on paying a fee of four annas to the landholder, to receive from him, within three months after the end of an agricultural year a statement of account of rent and sayar, specifying such particulars as may from time to time be prescribed by the Board either generally or for any particular local area or class of cases.

Right of tenant to statement of account.

136. The State Government shall cause to be printed and kept for sale to landholders at all tahsils books of receipts with counterfoil in the form prescribed by Schedule V* at a rate which the State Government may fix from time to time by notification in the official *Gazette* and which shall not exceed the cost of production.

Obligation of provincial Government to print and supply books of receipts.

*See U. P. Act V of 1943.

Deposit of
rent in the
court of
tahsildar.

137. (1) A tenant may make an application for permission to deposit in the court of the tahsildar an instalment or instalments or the unpaid balance of an instalment or instalments of rent in arrears on the date of such application and if such application complies substantially with the provisions of sub-section (2) the tahsildar shall receive such deposit and grant a receipt therefore, which shall operate as an acquittance for the amount deposited as if such amount had been received by the person entitled to receive it.

(2) Such application shall specify the name of the person to whom the amount deposited is due as arrears of rent, or where several persons are entitled to receive such amount, either jointly or severally, the name of each of such persons, or where the tenant entertains a *bona fide* doubt as to who is entitled to receive such amount the name of the person to whom rent was last paid and of the person now claiming it.

Disposal of
deposit by
tahsildar.

138. (1) If the tahsildar receives the deposit, he shall cause a notice of the receipt of such deposit to be served free of charge on the person or persons specified in the application and on any other person who he has reason to believe is entitled to such deposit.

(2) The tahsildar may pay the amount or the deposit to any person appearing to him to be entitled to the same or may, if in his opinion there is any doubt as to the person to whom the deposit should be paid, retain such amount until such doubt is removed by order of court of competent jurisdiction.

(3) The payment may, if the tahsildar so directs, be made by postal money order.

(4) If no payment is made under this section before the expiration of three years from the date on which deposit is made, the amount deposited may, in the absence of any order of a civil or revenue court to the contrary, be repaid to the depositor on his application and on his returning the receipt given by the tahsildar under the provisions of section 137 or on his producing such other evidence of his having made the deposit as the court may consider sufficient.

Deposit of
rent in court
during
pendency of
suit.

139. A tenant who is sued for a portion of the rent of a holding under the provisions of sub-section (3) of section 246 may deposit the whole of the rent of such holding in the court before which the suit is pending and such deposit shall subject to any orders passed in appeal, be disposed of in accordance with the orders of such court.

Bar of suit.

140. No suit or other proceeding shall be instituted against the Government or against any servant of the Government in respect of anything done regarding a deposit under the provisions of the foregoing sections of this Chapter; but any person considering himself entitled to recover the amount of such deposit may sue to recover the same from a person to whom it has been paid.

Produce Rents

Rights and
liabilities in
respect of
produce.

141. When the rent is based on an estimate or appraisal of the standing crop, the tenant shall be entitled to the exclusive possession of the crop.

(2) When the rent is payable by a division of the produce, the tenant shall be entitled to the exclusive possession of the

whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landholder.

(4) If the tenant removes any portion of the produce, contrary to the provisions of sub-section (2) the produce may, for the purpose of making an award under the provisions of section 143, be deemed to have been equal to that of the best crop of the same kind grown at that harvest on similar land in the neighbourhood.

142. (1) When the rent is payable by a division of the produce or is based on an estimate or appraisement of the standing crop—

(a) if either the landholder or the tenant neglects to attend at the proper time, or

(b) if there is a dispute about the division, quantity or value of the produce,

an application may be presented by either party to the tahsildar requesting that an officer be deputed to make the division, estimate or appraisement.

(2) With the application the applicant shall deposit such fee as may be prescribed by the State Government in rules made in this behalf.

143. (1) On receiving such application, the tahsildar shall issue a written notice to the opposite party to attend on the date and at the time and place specified in the notice, and shall depute an officer by whom such division, estimate or appraisement shall be made.

(2) If the opposite party objects that the rent is not payable by division of the produce or is not based on an estimate or appraisement of the standing crop, or that no amount is to be paid, such officer shall record the objection, but shall proceed as hereinafter provided.

(3) Such officer shall call on each of the parties to appoint, and shall himself appoint, a resident of the neighbourhood, as an assessor to assist in the division of the produce, or in the estimate or appraisement of the crop.

(4) If either party fails to attend, or refuses to appoint an assessor, such officer shall nominate an assessor on his behalf.

(5) Such officer shall record the opinions of the assessors and, in making his award, shall have regard thereto.

(6) In the case of a division of the produce, if the parties agree to the manner of division proposed by the officer, the division shall be made accordingly. If the parties do not agree to such manner of division, and in all cases in which the rent is based on an estimate or appraisement of the standing crop or in which it is claimed that no rent is payable, such officer shall make an estimate of the value of the produce or crop and determine the amount to be paid. He shall then deliver his award and submit it with a report of his proceedings to the tahsildar.

(7) Notice shall be issued to the parties that the award has been delivered and they shall be entitled to file objections to the award within one week of the date of service of

Application for officer to make division, estimate or appraisement.

Procedure on such application.

such notice; and the tahsildar shall after hearing such objections and making such further inquiry as may appear to be necessary confirm, modify or set aside the award and if any amount is found due shall pass an order for the payment of such amount and costs, if any, and such order shall have the effect of a decree for arrears of rent:

Provided that if the amount awarded under sub-section (6) exceeds two hundred rupees the tahsildar shall forward the case to the assistant collector in charge of the sub-division, who shall dispose of it in accordance with the provisions of sub-section (7).

Suit for
arrears of
produce
rent.

144. If rent which is based on an estimate or appraisal of the standing crop or which is payable by a division of the produce is in arrears and no order having the effect of a decree for arrears of rent has been passed under the provisions of sub-Section (7) of section 143, the landholder may bring a suit for the recovery of such arrears. In either case the court shall determine the rent in accordance with provisions of Chapter VI.

Instal-
ments
how fixed.

145. The rent of a tenant shall be payable in the following instalments and at the following dates:

(a) if the instalments and dates have been agreed on by the parties to the tenancy, the instalments and dates so agreed on;

(b) in the absence of any such agreement, if the instalments and dates have been determined and recorded by a settlement officer, the instalments and dates so determined and recorded;

(c) in other cases, in instalments proportionate to the land revenue instalments payable one month before the date appointed for the payment of such instalments.

Arrears

Rent when
in arrear.

146. Any instalment of rent not paid on or before the day when it falls due becomes an arrear on the day following the day it fell due and the tenant shall thereupon become liable to pay interest on the arrears at the rate of one anna per rupee per annum simple interest.

147. No decree for arrears of rent shall be executed by the arrest or detention of a tenant.

Prohibition
of arrest or
detention
for arrears.

148. Except as otherwise provided by this Act, an arrear of rent shall be recoverable by suit, or by notice through the tahsildar, in accordance with the provisions of this Act.

Methods of
recovering
arrears.

149. A co-tenant who has paid rent on account of another co-tenant or from whom such rent has been recovered may sue such co-tenant for the amount so paid.

Suit against
co-tenant.

150. (1) A plaintiff may unite in the same suit several claims for arrears of rent against the same tenant, provided that they are in respect of holdings situated in the same village.

Joinder of
claims for
arrears.

(2) In such a suit the decree shall specify separately the amount, if any, found due in respect of the several holdings.

Remission
for calamity
by Court
decreasing
claim for
arrears.

151. (1) If it appears to a court passing a decree in a suit for arrears of rent that the area of the holding was so decreased by diluvion or otherwise, or that the produce thereof was so diminished by drought, hail, deposit of

sand or other like calamity during the period for which the arrear is claimed that the full amount of rent payable by the tenant for that period cannot be equitably decreed, the court may, with the sanction of the collector, allow such remission from the rent payable by the tenant for that period as may appear to it to be just.

(2) An order of the collector under sub-section (1), giving or refusing sanction to a remission of rent, shall not be questioned in any civil or revenue court.

(3) Nothing in this section shall be deemed to authorize any remission in the rent payable by a permanent tenureholder, or a thekadar or, except when the area of a holding is decreased by diluvion, by a fixed-rate tenant.

(4) No remission made under the provisions of this section shall be deemed to vary the rent payable by the tenant otherwise than for the period in respect of which such remission was made.

(5) When a court allows remission under this section the State Government or any authority empowered by it in this behalf shall order consequential remissions of rent and revenue in accordance with the principles contained in the Sixth Schedule:

Provided that nothing in this sub-section shall affect tracts assessed to revenue for periods of five or eight years.

(6) The provisions of this section shall not apply to alluvial tracts in which there is a local custom providing for remissions of the rent of holdings, the culturable area of which has been decreased by diluvion, deposit of sand, or the like causes.

152. Any person to whom any sum is due on account of canal dues under section 47 of the Northern India Canal and Drainage Act, 1873, may sue for the recovery of such sum.

Suit for arrears of irrigation dues.

VIII
of
1873.

U. P.
III of
1901.
U. P.
IV of
1912.

153. Arrears of rent due in respect of Government property or in respect of an estate attached under the provisions of section 150 of the United Provinces Land Revenue Act, 1901, may be recovered in accordance with the provisions of sections 39 to 41 of the United Provinces Court of Wards Act, 1912, as if they were arrears due in respect of property under the charge of the Court of Wards.

Recovery of arrears in respect of Government property.

154. (1) In case of any general refusal to pay rent or any demand on account of canal dues to persons entitled to collect the same in any local area the State Government may, by notification in the official *Gazette*, declare that such rents or demands may be recovered as arrears of land revenue.

Recovery of arrears in the event of general refusal to pay.

(2) In any local area to which a notification made under sub-section (1) applies, a landholder or any other person to whom an arrear of rent or of canal dues is due, may notwithstanding anything to the contrary in this or any other enactment for the time being in force, instead of suing for recovery of the arrear under this Act, apply in writing to the collector to realize the same, and the collector shall after satisfying himself that the amount claimed is due, proceed, subject to rules made by the Board, to recover such amount with costs and interest as an arrear of land revenue.

(3) The collector shall not be made a defendant in any suit in respect of an amount for the recovery of which an order has been passed under this section.

(4) Nothing herein contained and no order passed under this section shall debar—

(a) a landholder from recovering by suit or application any amount due to him which has not been recovered under this section;

(b) a person from whom any amount has been recovered under this section, in excess of the amount due from him, from recovering such excess by suit against the landholder or other person on whose application the arrear was realized.

CHAPTER VIII

EJECTMENT

General

Application of some sections relating to tenants to permanent tenure-holder, etc.

155. In section 183, section 185 and section 186 and in no other sections of the Chapter "tenant" includes an under proprietor, a permanent tenure-holder and a fixed-rate tenant.

Application of provisions of this chapter to permanent lessees, etc.

155. The provisions of this Chapter relating to occupancy tenants shall apply to permanent lessees and to tenants holding under a special agreement or decree in Oudh except in so far as they are inconsistent with the terms of the lease, agreement or decree under which they hold.

Ejectment to be in accordance with the Act.

157. No tenant shall be ejected from his holding otherwise than in accordance with the provisions of this Act.

Arrears deemed satisfied when tenant is ejected.

158. Subject to the provisions of sections 159 and 160 when a tenant is ejected from the whole or any portion of his holding in execution of a decree or order of ejectment for arrears of rent, all arrears of rent, whether decreed or not, due in respect of such holding on the date of the delivery of possession shall be deemed to have been paid.

Compensation for improvements on ejectment.

159. (1) A court deciding any proceeding by which a tenant is ejected from his holding or part thereof shall assess the amount of compensation due to the tenant on account of any improvement made by him.

(2) If the compensation exceeds the amount recoverable from the tenant as arrears of rent, whether decreed or not, on account of the holding, together with costs, if any, the decree or order for ejectment shall be conditional on the payment by the landholder of the balance due to the tenant within such time as the court may direct.

(3) If the compensation does not exceed the amount recoverable from the tenant as specified in sub-section (2) any claim made by the tenant for compensation shall be deemed to have been satisfied on his ejectment.

(4) If the court to which a claim under sub-section (1) is made is the court of an assistant collector of the second class, he shall forward the proceedings to the assistant collector in charge of the sub-division who shall dispose of the case as if it had been instituted before himself.

160. (1) If on the date of the delivery of possession to the landholder there exist on the holding any ungathered crops or any trees which are the property of the tenant, the court executing the decree shall proceed in the following manner ;

Right to
crops and
trees when
ejectment
takes effect.

(a) If after deducting the compensation, if any, assessed under section 159, the amount due from the tenant is equal to or greater than the value of such crops or trees, the court shall deliver the possession of the holding to the landholder and all rights of the tenant in such crops or trees shall pass to the landholder.

(b) If after deducting the compensation, if any assessed under section 159, the amount due from the tenant is less than the value of such crops or trees, and

(i) the landholder pays the difference between such amount and such value to the tenant, the court shall deliver the possession of the holding to the landholder and all rights of the tenant in such crops or trees shall pass to the landholder ; or

(ii) the landholder does not pay such difference, the tenant shall have a right of tending, gathering or removing such crops or trees or fruits of such trees until such crops or trees have been gathered and removed or die or are cut down, as the case may be, paying such compensation for the use and occupation of land as the court may fix.

(2) On an application made by the tenant for the landholder the court executing the decree or the order of ejectment may determine the value of the crops or trees and the compensation payable by the tenant under the provisions of clause (b) of sub-section (1).

(3) Nothing in this section shall apply to a person ejected from land under the provisions of section 180 and any crops or trees existing on such land at the time of the delivery of possession shall vest in the decree-holder.

161. (1) Every notice to be issued to a tenant under this Chapter shall be filed by the landholder in duplicate, and shall contain the following particulars :

Contents
and service
of notice.

(a) the name, description, and place of residence of the landholder ;

(b) the name, description, and place of residence of the tenant ;

(c) a description of the holding, specifying the name of the village and mahal and of the pargana or other local area in which the holding is situated ;

(d) the recorded numbers of the holding and of each field, the amount of each instalment of rent, any portion of which is in arrears, the amount of such arrears.

(2) The manner of service of such notice on a tenant shall be that of the service of a summons by the court ;

*Provided that such notice shall also be served on the tenant through the registered post acknowledgement due :

Provided further that if the tenant is not found, or refuses to accept the notice or to sign the acknowledgment, the

Immunity
from
ejectment
from
residential
house on
ejectment
from
holding.

Application
for issue of
notice to
expropri-
etary tenant,
etc. for
payment of
arrears, and
for
ejectment
in default.

notice shall be served by affixing it to his usual place of residence in the presence of two respectable persons of the place, who shall sign the notice in attestation of such service and such service shall be deemed to be due service on the tenant.

162. No tenant shall be liable to ejectment from his residential house in a village other than a house erected under the provisions of section 65 merely because he has been ejected from his holding in that village.

Ejectment for arrears of rent.

163. (1) A landholder may, between the first day of June and the thirty-first day of August, apply to the tahsildar for the issue of notice to an exproprietary, an occupancy or a hereditary tenant for the payment of arrears of rent due by him and in default for ejectment from his holding, and the tahsildar shall forthwith issue such notice :

Provided that no application shall be made under this section for payment of an arrear which exceeds the amount of rent payable by the tenant for the holding in an agricultural year, or which on the date of the application has been outstanding for more than three years.

(2) A notice issued, under the provisions of sub-section (1) shall in addition to the particulars specified in section 161, specify the instalments of rent payable by the tenant for the holding in the future.

(3) The notice shall require the tenant to appear within fifteen days of the date of service of the notice and either to admit the claim or to contest it.

(4) If the tenant does not appear or appears and admits the arrear claimed and the instalments of rent specified in the notice the tahsildar shall pass an order directing him to pay* in the manner laid down in section 131 such arrear and also, during the currency of such order, to pay* in the manner laid down in section 131 the instalments of rent as they fall due :

Provided that if the order is passed *ex parte* the tenant may apply for setting aside such order and if he satisfies the court that either the notice was not served on him or that he had sufficient cause for non-appearance on the date fixed, the tahsildar shall set aside the order and shall proceed to hear the case in the manner hereinafter provided.

(5) If the tenant appears and contests the claim for arrears or pleads that he is not an exproprietary, an occupancy or a hereditary tenant, the application for the issue of notice shall, on payment of the court-fee as in a suit for arrears of rent, be deemed to be a suit for arrears of rent and the tahsildar shall pass an order directing the tenant to pay to the court deciding such suit the instalments of rent specified in the notice as they fall due :

Provided that all cases in which the tenant pleads that he is not an exproprietary, an occupancy or a hereditary tenant, or which the tahsildar is not competent to try shall be forwarded to the assistant collector in charge of the subdivision.

* See U. P. Act X of 1947

(6) If in such suit the court finds that the tenant is an expropriatory, an occupancy or a hereditary tenant and that any amount is due by him it shall pass a decree directing him to pay such amount in the manner laid down in section 131.

(7) If the tenant appears and pleads that he is not liable to pay the instalments specified in the notice the tahsildar shall pass an order directing him during the currency of such order to pay in such manner laid down in section 131 such instalments or such less amounts as he may, for reasons to be recorded, determine.

(8) No appeal shall lie against an order of the tahsildar regarding the payment of instalments passed under the provisions of sub-section (5) or sub-section (7), but no such order shall be a bar to a suit under the provisions of this Act for determination of rent or for the recovery of arrears of rent.

(9) An application made under the provisions of this section may be amended, either by the addition of the names of joint tenants or otherwise, at any time up to fifteen days before the date on which the instalment of rent next following the date of the application falls due, and on such application being amended the tahsildar shall proceed as if the amendment had been made in the notice filed within the prescribed period.

164. If in a case to which the provisions of sub-section (5) of section 163 apply, the court or any court which passes orders in the suit in appeal, reference or revision finds either that the tenant is not an expropriatory, an occupancy or a hereditary tenant or that no part of the arrear specified in the notice was due by the tenant as arrears of rent on the date on which the application was made under the provisions of sub-section (1) of section 163 it shall dismiss the suit and cancel with effect from the date of such dismissal the order of the tahsildar passed under the provisions of that section directing the tenant to pay in the manner laid down in section 131 the instalments of rent.

165. (1) If during the currency of an order passed by the tahsildar under the provisions of section 163 directing the tenant to pay in the manner laid down in section 131 the instalments of rent the tenant fails by the thirty-first day of May in any agricultural years so to pay the instalment which fell due in that agricultural year with interest thereon the tahsildar shall forthwith order in accordance the rules made by the Board that he be ejected from the whole or part of his holding and he shall forthwith be ejected accordingly.

(2) If the tenant fails to pay in the manner laid down in section 131 the amount of the arrear as ordered by the tahsildar under the provision of sub-section (4) of section 163, or as decreed by the court under the provisions of sub-section (6) of that section together with interest thereon and the cost of the application or the costs, if any, awarded to the landholder by the decree, as the case may be, by the thirty-first of May next following the expiry of a period of one year from the date of the passing of such order or of decree becoming final, as the case may be, the tahsildar

Order that may be passed in appeal from ejectment proceedings.

Consequences and cancellation of an order passed under section 163.

*See U. P. Act X of 1947.

shall forthwith order* in accordance with the rules made by the Board that the tenant be ejected from* the whole or part of his holding and he shall forthwith be ejected accordingly.

(3) If on any date before an order of ejectment is passed under the provisions of this section the tenant pays* in the manner laid down in section 131 the amount of the arrear which he was ordered to pay under the provisions of sub-section (4) of section 163 or which was decreed under the provisions of sub-section (6) of that section together with interest thereon and the costs of the application or the costs, if any, awarded to the landholder under the decree, as the case may be, and also the instalments of rent that have fallen due or the balance thereof, the court shall forthwith cancel its order directing the tenant to pay* in the manner laid down in section 131 the instalments of rent as they fall due.

(4) If within one month after the delivery of possession, the tenant deposits the full amount in respect of which he has been ejected, the ejectment order shall be cancelled and possession restored forthwith to the tenant.

(5) Notwithstanding anything in this section the tenant shall not be ejected for failure to pay any portion of his rent which has been remitted or suspended under the provisions of section 121.

Tenant's
claim for
compensa-
tion on
appearance.

166. (1) Notwithstanding anything in section 159, if the tenant appears in accordance with a notice served under the provisions of section 163 he shall be asked whether he makes any claim for compensation on account of improvements in case an order of ejectment is passed against him and if he makes such claim the tahsildar shall forward the case for decision to the assistant collector in charge of the sub-division.

(2) No claim for compensation on account of improvements shall be entertained unless it is made in accordance with the provisions of this section, provided that if the tenant appears after the expiry of the period specified in the notice and satisfies the tahsildar either that the notice was not served on him or that he had sufficient cause for non-appearance within such time, the tahsildar shall entertain any claim made by him for compensation.

Bar to suits
and
applications
in certain
cases.

167. (1) Except as provided in sub-section (5) and sub-section (8) of section 163 no suit for arrears of rent shall lie in respect of an arrear specified in a notice issued under the provisions of section 163 or in respect of any instalment of rent payable into court under the provisions of that section.

(2) No application shall be made under the provisions of section 163 in respect of an arrear for the recovery of which a suit has been instituted under the provisions of section 144 or section 148.

Ejectment
of certain
tenants in
execution of
a decree for
arrears.

168. (1) When a decree for arrears of rent against an exproprietary, an occupancy or hereditary tenant has not been completely satisfied within one year from the date of such decree by any mode of execution other than sale of holdings, the landholder may apply to the court, which passed the decree for the issue of a notice to the tenant for

*See U. P. Act X 1947.

payment of the amount outstanding and for his ejectment in case of default and the court shall thereupon issue such notice.

(2) The notice shall require the tenant to appear within thirty days of the service of the notice and either to show cause why he should not be ejected from the holding or to admit the claim and obtain leave to pay the amount into the court within one hundred and twenty days from the date of his appearance in the court.

(3) If the tenant does not appear in accordance with the terms of the notice or having appeared either does not show cause why he should not be ejected or does not ask for leave to pay, the court shall immediately order his ejectment from the holding.

(4) If the tenant appears and obtains leave to pay, then unless within one hundred and twenty days from the date of his appearance in the court the tenant has paid the amount or payment thereof has been certified to the court in accordance with rule 2, Order XXI of the Code of Civil Procedure, 1908, the court shall on the 31st of May next following, order his ejectment.

(5) The order of ejectment shall be executed on or after the first day of June next following the date of the order. If within one month after the delivery of possession, the tenant deposits the decretal amount, the ejectment order shall be cancelled and possession restored forthwith to the tenant.

(6) No extension of time for payment shall be allowed: Provided that the tenant shall be ejected only from such portion of the holding the rent of which does not exceed one-sixth of the decretal amount.

169. (1) When the rent of a non-occupancy tenant is in arrears, the landholder may apply to the tahsildar for the issue of a notice to such tenant for payment of the arrears and for his ejectment in case of default, and the tahsildar shall thereupon issue such notice.

(2) The notice shall require the tenant either to contest the claim within fifteen days of the service of notice, or to pay the arrear into the court within six weeks of the service of the notice, and shall state that if he fails, to comply with the terms of the notice an order of ejectment will be passed.

(3) If the tenant does not contest the claim and does not within six weeks of the service of the notice or within such time as may be allowed under the provisions of sub-section (4) pay the amount into court or the payment thereof is not certified under Order XXI, rule 2 of the Code of Civil Procedure, 1908, the court shall forthwith pass an order that he be ejected.

(4) The tahsildar may from time to time for reasons to be recorded extend the time for payment, provided that the total period allowed for payment shall not exceed six months.

(5) If the tenant contests the claim, the application for issue of notice shall, on payment of the court-fee as in a suit for arrears of rent, be deemed to be a suit for arrears of rent. If the tahsildar is not competent to try the suit, he shall forward it to the assistant collector in charge of the sub-division.

Application
for issue
of notice to
non-occu-
pancy
tenant for
payment of
arrears or
for
ejectment
in default.

Act
V of
1908.

V of
1908.

*See U. P. Act X of 1947.

Ejectment
of non-
occupancy
tenant in
execution of
a decree for
arrears of
rent.

170. (1) When a decree is passed for arrears of rent against a non-occupancy tenant the landholder may, in addition to any other mode of execution, apply to the court which passed the decree for the issue of a notice to the tenant for payment of the amount and for his ejectment in case of default; and the court shall thereupon issue such notice.

(2) The notice shall require the tenant either to show cause within fifteen days of the service of the notice why he should not be ejected or to pay the amount into court within six weeks of the date of the service of the notice.

(3) If the tenant appears and claims that he is not liable to ejectment, the court shall, after inquiry, decide such claim, and if it rejects it, shall order that the tenant be ejected forthwith.

(4) If the tenant does not claim that he is not liable to ejectment and does not, within six weeks of the service of the notice or within such time as may be allowed under the provisions of sub-section (5) pay the amount into court or the payment thereof is not certified to the court under Order XXI, rule 2 of the Code of Civil Procedure, 1908, the court shall forthwith pass an order that he be ejected.

(5) The court may from time to time for reasons to be recorded extend the time for payment provided that in no case shall the total period allowed for payment exceed six months.

V of
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Ejectment
for illegal
transfer or
sub-letting.

Ejectment for illegal or detrimental acts

171. (1) If the tenant transfers or sub-lets the whole or any portion of his holding otherwise than in accordance with the provisions of this Act and the transferee or sub-lessee has entered upon possession in pursuance of such transfer or sub-lease both the tenant and any person who may have thus obtained possession of the whole or any part of the holding shall on the suit of the landholder be liable to ejectment from the area so transferred or sub-let at the date of the institution of the suit:

*Provided that, in the case of a voidable sub-lease, if the suit succeeds, the court shall pass a decree permitting the tenant to apply in the same proceedings within a time not exceeding one month from the date of the decree, for the ejectment of the person in whose favour the voidable sub-lease has been made, and directing that if the tenant so applies and if he ejects such person and resumes occupation of the land within such further time as the court, either in the decree itself or by means of a subsequent order, may fix having regard to the provisions of section 182, the decree shall not be executed against the tenant except in respect of costs. In such a case, the decree shall direct that, if the tenant either fails to apply for the ejectment of such person within the time fixed in this behalf or fails to resume occupation within the further time allowed by the court for that purpose, the tenant as also the sub-lessee shall be ejected from the area sub-let at the date of the institution of the suit.

(2) To every suit under this section both the tenant and the sub-tenant or the person in whose favour the transfer purports to have been made shall be made parties.

*See U. P. Act. X of 1947.

172. (1) A tenant shall be liable to ejectment from his holding on the suit of the landholder—

(a) on the ground of any act or omission detrimental to the land in that holding, or inconsistent with the purpose for which it was let ; or

(b) on the ground that he or any person holding from him has broken a condition on breach of which he is by special contract which is not contrary to the provision of section 4 liable to be ejected :

Provided that the planting of trees in accordance with the provisions of section 80 or the making of an improvement in accordance with the provisions of this Act, or the use of a holding for the purpose of grazing or raising stock, including horses, or the construction of enclosures suitable for stock raising, shall not constitute ground for ejectment under this section.

(2) In any suit for ejectment under this section any person claiming through the tenant may be joined as a party, and, where the plaintiff's cause of action is based wholly or partly on any act or omission or breach of condition by a sub-lessee or other transferee, such sub-lessee or other transferee shall be joined as a party.

173. (1) A decree for ejectment under section 172 may direct the ejectment of the tenant either from the holding or from such portion thereof as the court, having regard to all the circumstances of the case, may direct.

(2) Such decree shall further direct that if the tenant repairs the damage, or pays such compensation as the court thinks fit within three months from the date of the decree or within such further period as the court may, for reasons to be recorded, allow, the decree shall not be executed in respect of costs.

174. Notwithstanding anything in section 172 a landholder may, in lieu of suing for ejectment, sue—

(a) for compensation ; or

(b) for an injunction with or without compensation, or

(c) for repair of the damage or waste with or without compensation.

Ejectment on other grounds

175. Subject to the provisions of section 19 a non-occupancy tenant shall also be liable to ejectment on the application of the landholder on any of the following grounds, namely :

(a) that he is a tenant holding from year to year ;

(b) that he is a tenant holding under a lease or for a period which has expired or will expire before the end of the current agricultural year.

176. (1) An application for the ejectment of a tenant under the provisions of section 175 shall be made between the first day of July and the thirtieth day of September and not otherwise, and shall be accompanied by the notice specified in section 161 :

Provided that if the application is made within the prescribed period the Court may allow the names of other persons having an interest in the tenancy or who are for any other reason necessary parties to the proceedings, to be added after such period has expired, and the notice shall be as effectual in

Ejectment
for
detrimental
act or
breach of
condition.

Decree in
suit under
section 172.

Suit for
compensa-
tion,
injunction,
etc.

Ejectment
on
application.

Application
and notice.

respect of all persons so added as if they had been included in the notice filed within the prescribed period.

(2) Every notice under sub-section (1) shall state the ground on which ejectment is applied for and inform the tenant—

(a) that if he desires to dispute the ejectment he must contest the notice within thirty days of its being served on him, and

(b) that if within thirty days of the service of the notice he appears and admits his liability to ejectment he will not be liable for any costs.

Service of
notice.

177. On an application being made in accordance with the provisions of section 176, a copy of the notice accompanying such application shall on payment of the prescribed fee be served on the tenant in the manner prescribed in section 161.

Effect on
admission
or of non-
appearance.

178. (1) If a tenant to whom a notice is issued under section 177 appears within thirty days of the service of such notice and admits his liability to ejectment, the court shall pass an order for his ejectment, but he shall not be liable for any cost incurred by the applicant.

(2) If on the expiry of thirty days from the service of such notice the tenant has not appeared the court shall pass an order for his ejectment.

Procedure
where
tenant
contests
notice.

179. (1) If within thirty days of service of a notice under section 177 the tenant appears and contests his liability to ejectment, the court shall forward the proceedings for disposal to the assistant collector in charge of the sub-division.

(2) In such case the application under section 175 shall be deemed to be a plaint and the case shall proceed as a suit. The landholder shall within a time to be fixed by the court, deposit the balance of court-fee due from him, failing which the suit shall be dismissed.

Ejectment of person occupying land without title

Ejectment
of person
occupying
land with-
out consent.

*180. (1) A person taking or retaining possession of a plot of land without the consent of the person entitled to admit him to occupy such plot and otherwise than in accordance with the provisions of the law for the time being in force, shall be liable to ejectment under this section on the suit of the person so entitled, and also to pay damages which may extend to four times the annual rental value calculated in accordance with the sanctioned rates applicable to hereditary tenants :

Provided that, notwithstanding the provisions of sub-section (1) of section 246, where such a person taking or retaining possession is one of the co-sharers whose joint consent is required to bring such suit, he shall not be required to join as plaintiff in the suit. In such a case, the decree passed in favour of the plaintiff shall be deemed to be in favour of all such co-sharers.

Explanation I.—A co-sharer in the proprietary rights in a plot of land taking or retaining possession of such plot without the consent of the whole body of co-sharers or of an agent appointed to act on behalf of all of them, shall be deemed to be in possession of such plot otherwise than in accordance with the provisions of the law within the meaning of this section.

*See U.P. Act I of 1940.

Explanation II.—A tenant entitled to sublet a plot of land in accordance with the provisions of the law for the time being in force may maintain a suit under this section against the person taking or retaining possession of such plot otherwise than in the circumstances for which provision is made in section 183.

(2) If no suit is brought under this section, or if a decree obtained under this section is not executed, the person in possession shall become a hereditary tenant of such plot, or if such person is a co-sharer, he shall become a *khud-kasht* holder, on the expiry of the period of limitation prescribed for such suit or for the execution of such decree, as the case may be :

Provided that where the person in possession cannot be admitted to such plot except as sub-tenant by the person entitled to admit, the provisions of this sub-section shall not apply until the interest of the person so entitled to admit is extinguished in such plot under section 45 (f).

Enforcement of ejectment

V of 1908. 181. (1) Every decree or order for ejectment shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, relating to the execution of decrees for delivery of immovable property.

Mode of execution of decree or order.

(2) Every sub-lessee or transferee whose interest is extinguished on the ejectment of his landholder or transferor, as the case may be, shall, for the purpose of the execution of the decree or order for ejectment, be deemed to be a judgment-debtor, but unless he offers resistance or obstruction to delivery of possession, he shall not be liable for costs.

182. (1) Delivery of possession in execution of a decree or order for ejectment of a civil or revenue court, shall not be made before the first day of April or after the thirtieth day of June in any year :

Time of execution.

Provided that the Provincial Government may by rule prescribe in respect of any local area other dates between which delivery of possession shall be made.

(2) Nothing in this section shall apply to an order of delivery of possession passed after the first day of June in respect of an application for execution made before the preceding first day of April or to an order of ejectment passed under the provisions of section 165 or section 170 or section 180.

Remedies for wrongful ejectment

183. (1) Any tenant ejected from or prevented from obtaining possession of his holding or any part thereof, otherwise than in accordance with the provisions of the law for the time being in force by—

Remedies for wrongful ejectment.

(a) his landholder or any person claiming as landholder to have a right to eject him, or

(b) any person admitted to or allowed to retain possession of the holding by such landholder or person, whether as tenant or otherwise, may sue the person so ejecting him or keeping him out of possession—

- (i) for possession of the holding ;
- (ii) for compensation for wrongful dispossession, or

(iii) for compensation for any improvement he may have made :

Provided that no decree for possession shall be passed where the plaintiff at the time of the passing of the decree, is liable to ejectment in accordance with the provision of this Act within the current agricultural year.

(2) If the decree is for possession no compensation for an improvement shall be awarded.

(3) When a decree is given for compensation for wrongful dispossession but not for possession, the compensation awarded shall be for the whole period during which the tenant was entitled to remain in possession.

(4) A tenant who has sued for possession only shall not be entitled to institute a separate suit for compensation for wrongful dispossession, or for an improvement in respect of the same cause of action.

Reversal of
decree or
order of
ejectment.

184. When a court of appeal or revision reverses a decree or order for the ejectment of a tenant, and the tenant is liable to ejectment in accordance with the provisions of this Act within the current agricultural year the decree or order of the court of appeal or revision shall not be for possession but, subject to the provisions of section 73 and 74, for costs only.

Defendants
to be joined
in suit.

185. When a tenant sues under clause (a) of sub-section (1) of section 183 for possession, he may join, as a defendant, in the suit, every person in possession claiming through the landholder or the person who has ejected him, as the case may be, and if he sues under clause (b) of sub-section (1) of that section he shall join the landholder or the person claiming as landholder to have the right to eject him, as the case may be, as a defendant in the suit.

Reinstatement
of
tenant.

186. The provision of section 181 shall apply *mutatis mutandis* to the execution of decree for the reinstatement of a tenant in his holding.

CHAPTER IX

Grants of land Held Rent-free or at a Favourable Rate of Rent

Application
of this
chapter to
under-
proprietors.

187. In this Chapter "landlord" includes an under-proprietor with whom a sub-settlement has been made.

Meaning of
rent-free
"grant."

188. A "rent-free" grant means a grant of a right to hold land rent-free by a landlord with or without consideration not being a grant for the purpose of planting a grove :
Provided that in Agra, if made after the seventh day of September, 1926, and in Oudh, if made after the commencement of this Act, such grant shall be made by registered instrument.

Explanation I—When a sale of land takes place, a reservation in favour of the vendor of a portion of the land sold, to be held rent-free by such vendor, is a rent-free grant.

Explanation II—A grant of land for the performance of a service, religious or secular, is a rent-free grant.

189. A "grant of land at a favourable rate of rent," means in Oudh a grant of land at a rent less than the aggregate of the revenue and local rates payable thereon and in Agra a similar grant made after the commencement of this Act.

Meaning of "grant of land at a favourable rate."

190. A landlord may, in accordance with the provisions of this Chapter, sue to resume possession of land held rent-free or at a favourable rate of rent, for the fixation of rent or revenue on land held rent-free or for the enhancement of the rent of land held at a favourable rate of rent.

Liability of grant to resumption, or assessment or enhancement of rent.

191. All land held rent-free or at favourable rate of rent shall be liable to fixation of rent or revenue or to enhancement of rent, as the case may be, unless—

Grants not liable to fixation of revenue or rent.

(1) in Agra,—

(a) it is held rent-free in a district or portion of a district which is permanently settled under a grant made prior to the permanent settlement; or

(b) it is held rent-free under a judicial decision of a date prior to the twenty-second day of December, 1873; or

(c) it is held rent-free by a holder whose title is based on a transfer of the land for valuable consideration made by the landlord or by a rent-free holder thereof before the twenty-second day of December, 1873, provided that at that date the right of the landlord to resume the land had been barred by section 28 of Act X of 1859 or by article 130 of the Second Schedule of the Indian Limitation Act, 1871;

(2) in Oudh,—

(a) it is held rent-free or at a favourable rate of rent under a Government grant; or

(b) it is held rent-free or at a favourable rate of rent under a judicial decision of a date prior to the first day of January, 1902; or

(c) it was acquired rent-free or at a favourable rate of rent for a valuable consideration before the tenth day of October, 1876, and the right to resume it, had, before that date, been barred by the law of limitation:

Provided that nothing in this section shall apply to any grants in Oudh to which the provisions of section 79 of the United Provinces Land Revenue Act, 1901, are applicable.

192. (1) Subject to the provisions of section 191 a landlord or a grantee or a tenant of a grantee may sue for a declaration that land held rent-free or at a favourable rate of rent—

Declaration that grantee is proprietor or under-proprietor.

(a) in Agra is held in proprietary right, and for the fixation of revenue thereon, or

(b) in Oudh is held in under proprietary right and for the fixation of rent thereon.

(2) No suit shall lie under the provisions of sub-section (1) unless such land—

(a) is held under a grant made in perpetuity and in consideration of the loss or surrender of a right previously vested in the grantee, or

(b) is held under a grant made in perpetuity by a written instrument for valuable consideration, or

(c) not being held for the performance of some service, religious or secular, or conditionally, or for a term, has been held in Agra rent-free for fifty years immediately before the seventh day of September, 1926, or in Oudh rent-free or at a favourable rate of rent for, fifty years.

(3) When rent or revenue is fixed on such land under the provisions of this section, any tenant of the grantee shall become a hereditary tenant of his holding.

193. If under the provisions of this Chapter revenue or rent has to be determined such revenue or rent shall be determined in accordance with the following provisions, namely:

(a) the rent of a hereditary tenant shall be determined in accordance with the sanctioned rent-rates applicable to hereditary tenants.

(b) in fixing revenue, the court shall calculate the rent in accordance with the provisions of clause (a) and shall assess the revenue thereon in accordance with the provisions of Chapter V of the United Provinces Land Revenue Act, 1901.

(c) in fixing the rent of an under-proprietor, the court shall calculate the revenue in accordance with the provisions of clause (b) and shall add thereto a percentage which shall not be less than ten or greater than fifty.

194. Subject to the provisions of sections 191 and 192, rent may be fixed on all rent-free grants and the rent of all grants held at a favourable rate of rent may be enhanced.

195. Except in a case in which the grantee becomes a proprietor or an under-proprietor under the provisions of section 192, a grantee may be ejected from his grant in all cases in which rent may be fixed thereon or the rent thereof enhanced if, by the terms of the grant or by local custom, it is held—

(a) at the pleasure of the grantor; or

(b) for the purpose of some specific service, religious or secular, which the landlord no longer requires; or

(c) conditionally or for a term, when the condition has been broken or the term has expired.

196. (1) The liability to fixation or enhancement of rent under section 194 and to ejection under section 195 arises—

(a) where the land is held under a written instrument by which the grantor has expressly agreed that it shall not be resumed, on the death of the original grantor or on the expiration of the settlement in force at the date of the grant or on the expiry of a period of thirty years from the date of the grant whichever event first occurs;

(b) where the land is held for the purpose of some specific service, religious or secular, when the service is no longer required;

(c) where the land is held conditionally or for a term, when the condition has been broken or the term

Rent or revenue how determined.

Liability of grant to fixation of rent or to enhancement.
Ejection of grantee.

Date from which liability to fixation or enhancement of rent or to ejection arises.

U.P.
III of
1901.

expires, or the expiry of eleven years from the date of the grant, whichever event first occurs;

(d) in any other case, on the expiry of five years from the date of the grant.

(2) In the case of a grant falling under clause (b) of sub-section (1) the filing of a suit for fixation or enhancement of rent for ejection shall be deemed sufficient notice that the service is no longer required; but where no previous notice in writing has been given to the grantee, the court may, in its discretion, award cost to the defendant.

197. If, under the provisions of this Chapter, rent is fixed on a rent-free grant, of the rent of a grant held at a favourable rate of rent is enhanced under the provisions of section 194, the grantee shall become a hereditary tenant from the date of the decree fixing or enhancing the rent.

Determination of class of tenure and of amount of rent payable.

198. The provisions of section 65, section 68, section 70, sections 72 to 80, section 157, section 159, section 160, section 162, sections 181 to 193 and sections 185 and 186 shall apply to rent-free grantees and to grantees holding at a favourable rate of rent as they apply to hereditary tenants.

Application of certain sections to grantees.

199. The provisions of section 69 and of Chapter VII and of clauses (a), (b), (d) and (e) of section 236 and of sections 237 to 240 shall apply to tenants, except that the provisions of section 148 shall apply only in so far as they refer to recovery of an arrear of rent by suit.

Application of certain sections to grantees holding at a favourable rate of rent.

200. The interest of a rent-free grantee or a grantee holding at a favourable rate of rent shall be extinguished—

Extinction of rent-free grantees' interests.

(a) when he dies, leaving no heir entitled to succeed him,

(b) when, in accordance with the provisions of this Chapter he becomes a proprietor, an under-proprietor or a hereditary tenant, or when he is ejected,

(c) when his holding is acquired under the provisions of the Land Acquisition Act, 1894,

(d) by merger,

(e) when he has lost possession of his holding and the right to recover possession is barred by limitation,

(f) when he surrenders his holding under the provisions of section 82, which shall *mutatis mutandis* apply to him, as if he were a tenant.

201. Suit under this Chapter shall, when the local area in which the land is situated is under settlement, be instituted in the court of the settlement officer or assistant settlement officer, who shall have to hear and dispose of cases under this Chapter.

Procedure when district is under settlement.

202. Appeals from decrees or orders passed under the provisions of sections 198 and 199 shall be governed by the provisions of Chapter XIV and appeals from other decrees or orders passed under this Chapter shall, notwithstanding anything in Chapter XIV, be governed by the provisions of Chapter X of the United Provinces Land Revenue Act, 1901.

Appeals.

I of
1894,

U. P.
III of
1901.

Saving of
the right of
State
Government
to assess
revenue.

203. Nothing in this Chapter shall affect the right of the State Government to assess revenue on any land in accordance with section 58 or section 103 of the United Provinces Land Revenue Act, 1901. U.P. III of 1901.

CHAPTER X

Grove-holders

Application
of this
chapter to
under-
proprietor.

Definition
grove-
holder.

204. In this Chapter the word "landlord" includes an under-proprietor, a permanent lessee and a permanent tenure-holder.

205. A person who has planted a grove—

(a) on land which was let or granted to him by a landlord, for the purpose of planting a grove;

(b) with the written permission of the landlord, or in accordance with local custom entitling him to do so, on land which he held as a tenant other than as a sub-tenant, a permanent tenure-holder, or a fixed-rate tenant, or a tenant holding on special terms in Oudh or an occupancy tenant in Oudh;

shall be grove-holder of such grove:

Provided that where the permission was granted in Agra before the 7th day of September, 1926, and in Oudh prior to the commencement of this Act, the permission need not have been in writing and may have been either express or implied.

Rights and
liabilities of
grove-
holder.

206. Notwithstanding anything in this Act, or any custom or contract to the contrary—

(a) the rights of a grove-holder shall, subject to the provisions of clauses (a) and (b) and clauses (d) to (f) of section 45, which shall apply to grove-holders as they apply to tenants, subsist so long as grove-land retains its character as such. On the land ceasing to be grove-land the holder shall become a hereditary tenant of such land;

(b) a grove-holder may replant trees as they are cut or die and any person who is recorded as a grove-holder of any land on the 1st day of July, 1937, and is in possession thereof at the commencement of this Act, may replant trees thereon within three years of the commencement of this Act;

(c) the interest of a grove-holder shall be transferable by voluntary transfer or in execution of a decree of a Civil or Revenue court or otherwise;

(d) the interest of a grove-holder shall devolve according to the personal law applicable to him;

(e) while the land continues to be grove-land, a grove-holder shall be liable to ejection on one of the grounds mentioned in section 172, and the provisions of section 157, section 159, section 160, section 162, section 173, section 174, sections 181 to 183, section 185 and section 186 shall apply to him as if he were a tenant;

(f) the provisions of sections* 49, 59 to 64 and of Chapter VII and of clause (a), (b), (d) and (e) of section 236 and of sections 237 to 240 shall apply to grove-holders as they apply to tenants, except that the provisions of section 148 shall apply only to the extent to which they refer to the recovery of rent by suit ;

(g) where a person becomes a grove-holder in respect of land of which he is a tenant, he shall hold such land as grove-holder in supersession of all subsisting rights and liabilities so far as they are inconsistent therewith.

207. A grove-holder may make any improvement which a hereditary tenant may make and the provisions of section 65, sections 68 to 70, sections 72 to 79, shall apply to him as if he were a hereditary tenant.

208. The provisions of Chapter XIV shall apply to orders and decrees passed under this Chapter in respect of appeals, review and revision as if the grove-holder were a tenant.

Right of grove-holder to make improvement.

Appeals.

CHAPTER XI

Thekadars

209. The farm or lease of a thekadar is called a "theka", the person who grants it, the "lessor" and the area to which it relates, the "theka area".

Definition "thekadar" etc.

IV of 1882. 210. A theka may be made only by a written instrument executed by the lessor and shall be deemed to be a lease for agricultural purposes within the meaning of section 117 of the Transfer of Property Act, 1882.

Methods of granting theka.

211. (1) Except as otherwise provided by the term of his theka a thekadar may exercise during the period and to the extent of his theka all the rights of the lessor under this Act, except—

Rights of lessor which thekadar may exercise.

(a) the right to sue for enhancement of rent ;

(b) the right to sue a rent-free grantee or a grantee holding at a favourable rate of rent under the provisions of Chapter IX.

(2) The rights mentioned in clauses (a) and (b) of sub-section (1) may be exercised by the thekadar only if they are conferred expressly by the terms of the theka.

(3) Rights which may be exercised by a thekadar under the foregoing sub-sections shall not be exercised by the lessor during the period of the theka.

212. (1) A lessor may notwithstanding the theka make any improvement in or affecting the theka area which he would otherwise be entitled to make as land-holder under the provisions of section 71.

Improvement in the theka area by lessor.

(2) A thekadar shall not without the written consent of the lessor make or grant permission for the making of any improvement.

213. (1) The interest of a thekadar—

(a) shall not be transferable in execution of a decree of a Civil or Revenue court ;

Restrictions on the transfer of and on succession to thekas.

* See U. P. Act X of 1947.

Grounds of
ejectment.

(b) except as provided by the terms of the theka, shall not be otherwise transferable or be heritable.

(2) Where a thekadar's interest is heritable, it shall devolve according to the personal law applicable to him.

214. (1) A thekadar shall be liable to ejectment on one or more of the following grounds, namely :

(a) on the ground that a decree against him for arrears of rent remains unsatisfied ;

(b) on the ground of any act or omission prejudicial to the rights of the lessor or inconsistent with the purpose of the theka ;

(c) on the ground that he, or any sub-thekadar under him, has broken a condition on breach of which he is by the terms of his theka liable to be ejected ;

(d) on the ground that the term of the theka has expired, or will expire at or before the end of the current agricultural year ;

(e) in the case of a theka from year to year, on the expiry of a notice to determine the theka, provided that not less than six month's notice ending on any date in the last year of the thekadar's tenure shall be given ;

(f) except in the case of thekas granted before the commencement of this Act, on the ground that a period of ten years has elapsed since the theka began, or on the ground that the period of the settlement of the local area in which the theka area is situated has come to an end.

(2) Notwithstanding anything in clauses (b) and (c) of sub-section (1) no thekadar shall be ejected for non-payment of rent otherwise than in accordance with clause (a) of that sub-section.

Procedure of
ejectment
for non-
payment of
decree
arrears.

215. (1) When a lessor desires to eject a thekadar on the ground specified in clause (a) of sub-section (1) of section 214 he shall apply for execution of the decree in accordance with the provisions of section 170.

(2) When a lessor desires to eject a thekadar on any other ground specified in sub-section (1) of section 214 he shall proceed by suit.

(3) The provisions of section 174 shall apply to a thekadar who is liable to ejectment under the provisions of clause (b) or clause (c) of sub-section (1) of section 214 as they apply to a tenant and if a decree for ejectment is passed under the provisions of either of these clauses the provisions of sub-section (2) of section 173 shall apply to such decree as they apply to a decree against a tenant.

Joinder of
sub-theka-
dar as
defendant.

216. In a suit for the ejectment of a thekadar any sub-thekadar may be joined as a party to the suit, and shall be so joined where the suit is on the ground of any act or omission of such sub-thekadar or to which such sub-thekadar was a party.

Remedies
for wrong-
ful
ejectment.

217. (1) A thekadar who has been wrongfully ejected from the whole or any part of the theka area, or wrongfully prevented from exercising any of his rights as thekadar by the lessor or any person claiming under or as agent of the lessor may sue for any or all of the following remedies,

- (a) recovery of possession ;
- (b) an injunction ;

(c) compensation for such wrongful dispossession or unlawful interference ;

(d) compensation for an improvement lawfully made by him.

(2) The provisions of sub-sections (2), (3) and (4) of section 183 and of sections 184 to 186 shall apply to a thekadar in the same way and to the same extent as they apply to a tenant.

218. A thekadar may at any time with the consent of the lessor surrender his interest in the theka. Surrender.

219. The provisions of sections 73 to 75, section 79, sections 90 and 91, sections 123 to 125, section 129, sub-sections (1) and (2) of section 130, sections 131 to 133, sections 137 to 140, sections 146 and 147, section 149, section 150, section 154, section 157, section 159, section 161, sections 236 to 238 and section 240 shall apply to a thekadar in the same way and to the same extent as they apply to a hereditary tenant and the provisions of section 148 shall apply to an arrear of rent due by a thekadar only in so far as they refer to the recovery of rent by suit. Applications to thekadar of certain sections relating to tenants.

220. The provisions of sections 245 and 246 governing the exercise by two or more co-sharers of their rights against a common tenant shall be applicable also to the exercise of such right against common thekadar. Application of sections 245 and 246.

221. If a thekadar remains in possession after the expiry of his theka, and the lessor accepts rent from him or otherwise assents to his continuing in possession the theka shall, in the absence of an agreement to the contrary, be deemed to have been renewed from year to year. Provision for holding over.

222. Every suit or application brought by a thekadar against the lessor, or against a thekadar by the lessor, under the provisions of this Chapter, which is of the same nature as any suit or application specified in the Fourth Schedule, which may be brought by a tenant against a landholder or by a landholder against a tenant, shall be deemed to be included in that Schedule under the same serial number as such similar suit or application. Application of the Fourth Schedule.

CHAPTER XII

Arrears of Revenue, Profits, etc.

223. The word "co-sharer" shall, for the purposes of this Chapter include a thekadar who is in possession of the property leased to him. Extent to which the term "co-sharer" applies to a thekadar.

224. A lambardar may sue a co-sharer for arrears of revenue or rent payable through such lambardar by such co-sharer and for village expenses and other dues for which such co-sharer may be liable to the lambardar. Suit for arrears of revenue, etc. by lambardar.

225. A lambardar who has paid arrears of revenue or rent on account of a joint lambardar who defaults may sue joint lambardar for the amount so paid. Suit against a joint lambardar.

226. A co-sharer who has paid arrears of revenue or rent on account of a lambardar or another co-sharer who defaults may sue such lambardar or co-sharer for the amount so paid. Suit for arrears of revenue by co-sharer.

Suit for arrears of revenue by a muafidar or assignee.

227. A muafidar or assignee of revenue may sue for arrears of revenue due to him as such.

Suit by a superior proprietor for arrears of revenue rent.

228. A superior proprietor may sue for arrears of revenue or rent due to him as such.

Profits when divisible.

229. (1) In the absence of the determination of the date by the settlement officer, or of an express agreement among the co-sharers, profits shall be divisible on such dates as the State Government may, by rules made under this Act, prescribe.

(2) Revenue, rent or profits not paid on the day on which they fall due become on the following day arrears, and the lambardar, co-sharer, muafidar, assignee of revenue or superior proprietor, as the case may be, shall be entitled to claim interest on such arrears at the rate of one anna in the rupee per annum simple interest.

Suit for settlement of accounts and profits against lambardar.

230. (1) A co-sharer may sue the lambardar for settlement of accounts and for his share of the profits of a mahal or of any part thereof.

(2) In any such suit the court may award to the plaintiff a share not only of the amounts actually collected but also of such sums as have remained uncollected owing to the negligence or misconduct of the lambardar.

Suit for settlement of accounts and profits against a co-sharer.

231. (1) A co-sharer may sue another co-sharer for a settlement of accounts and for his share of the profits of a mahal or of any part thereof.

(2) In a suit under this section, the plaintiff shall make the lambardar and all co-sharers interested in the division of profits parties to the suit.

Liability to produce accounts in certain cases.

232. If in a suit under the provisions of section 230 or section 231 it is claimed that either party has made collections, such party shall be bound to produce his accounts, including the books of the counterfoils of receipts issued by him, and if he does not do so the court may make such presumption against him and pass such orders as to costs as it thinks fit.

Valuation of *sir* and *khudkasht* in profits cases.

233. (1) In a suit for settlement of accounts under section 230 or section 231 the collections made by a co-sharer shall, in the absence of any custom or contract to the contrary, be treated as having been made on behalf of all the co-sharers.

(2) In any such suit, the valuation of *sir* which is not let and of *khudkasht* which has been cultivated continuously for three years at the date of the suit shall, for the purposes of calculating the amount divisible among the co-sharers as profits, be made at the rate applicable to exproprietary tenants; provided that if such *sir* is let the rent payable by the tenant thereof shall be accepted as the fair valuation, unless the court, for reasons to be recorded, decides to make the valuation in some other manner.

234. In any suit under section 224, section 226, section 227, section 228 or section 231 the plaintiff may sue any number of co-sharers collectively, but in such case the decree shall specify the extent to which each of the defendants is affected thereby.

Provision for joinder of parties and form of decree in certain suits.

CHAPTER XIII

Compensation and Penalties

235. In this Chapter "tenant" shall include an under-proprietor and a permanent lessee.

Application of this Chapter to under-proprietors, etc.

236. If any person—

- (a) knowingly collects any sum or produce in excess of the amount due as an arrear of rent or sayar;
- (b) charges interest on an arrear of rent at a rate exceeding that allowed by this Act;
- (c) infringes the provisions of section 90 or collects any sum which is irrecoverable under the provisions of section 91;

Tenants entitled to compensation for illegal exactions.

- (d) collects any rents of which payment has been remitted in accordance with the provisions of this Act, or, before the expiry of the period of suspension collects any rent of which payment has been suspended in accordance with the provisions of this Act;

- (e) without reasonable cause, credits a payment made towards rent or sayar otherwise than to rent or sayar or otherwise than in accordance with the provisions of section 130;

the tenant or lessee or licensee of sayar, as the case may be, shall be entitled to recover from such person such compensation not exceeding two hundred rupees as the court having regard to the circumstances of the case, may decree, in addition to any amount or value of any produce which may have been so collected, charged or credited.

237. When in any suit for arrears of rent the court finds that the landholder has without reasonable cause refused or neglected to deliver to the tenant a receipt, or neglected to prepare and retain a counterfoil of the receipt in the manner prescribed by section 133, in respect of any year to which such suit relates it may award to the tenant such compensation not exceeding double the amount or value of the rent paid, as it may decree.

Power to award compensation in suit.

238. If a landholder collects any rent of which the payment has been remitted in accordance with the provisions of this Act, or, before the expiration of the period of suspension collects any rent of which the payment has been suspended in accordance with the provisions of this Act, the whole of the revenue or rent, as the case may be, remitted or suspended in his favour shall become immediately payable by him.

Penalty for collecting rent remitted or suspended.

Penalty for habitual refusal or neglect to give receipts.

239. If any person habitually refuses, or neglects, to give receipts in accordance with the provisions of section 133 he shall on conviction by a criminal court be liable for a first offence to a fine not exceeding one hundred rupees and for a second or subsequent offence to imprisonment for a term not exceeding three months or to fine not exceeding five hundred rupees or to both.

Penalty for illegal entry on a holding.

240. (1) Any person against whom a decree or order of ejectment from a holding or any portion thereof has been executed under the provisions of this Act, or under the Agra Tenancy Act of 1926 or the Oudh Rent Act, 1886, and who, so long as such decree or order remains in force, re-enters or attempts to re-enter into occupation of such holding without the written consent of the person entitled to admit him as tenant, shall be presumed to have done so with intent to intimidate or annoy the person in possession, within the meaning of section 441 of the Indian Penal Code.

U. P.
III of
1926.
XXII
of
1886.

XLV
of
1860.

(2) If a landholder enters or attempts to enter upon a holding in the possession of a tenant with the object of dispossessing him of such holding, otherwise than under the provisions of this Act, such landholder shall be presumed to have done so with intent to intimidate or annoy such tenant within the meaning of section 441 of the Indian Penal Code.

XLV
of
1860.

(3) Where a person is convicted of an offence of criminal trespass in the circumstances stated in sub-section (1) or sub-section (2), and it appears to the court convicting him that any person has, by reason of anything done in the course of the committing of the offence, been dispossessed of any land, the court may, if it thinks fit, order the dispossessed person to be restored to the possession of such land.

CHAPTER XIV

Procedure and Jurisdictions of Courts, Powers of Lambardar, etc. General provisions

Meaning of "proprietary right" in certain cases.

241. In section 246, sub-section (2) of section 247, section 286 and section 287, the words "proprietary right" shall include the right of an under-proprietor.

Suits and applications cognizable by revenue court only.

242. Subject to the provisions of section 286 all suits and applications of the nature specified in the Fourth Schedule shall be heard and determined by a revenue court, and no court other than a revenue court, shall, except by way of appeal or revision as provided in this Act, take cognizance of any such suit or application or of any suit or application based on a cause of action in respect of which any relief could be obtained by means of any such suit or application.

Explanation I—If the cause of action is one in respect of which relief might be granted by the revenue court, it is immaterial that the relief asked for from the civil court may not be identical with that which the revenue court could have granted.

Explanation II—If the cause of action is one in respect of which relief might be granted by the revenue court under section 180, it is immaterial that the relief which may be

*See U. P. Act X of 1947.

asked for from the civil court is greater than or additional to that which the revenue court could have granted."

Example.—If in a suit under section 180, a person claims damages exceeding four times the annual rental value, he cannot oust the jurisdiction of the revenue court by framing his relief as such.

V of
1908.

243. (1) The provisions of the Code of Civil Procedure, 1908, except—

(a) provisions inconsistent with any thing in this Act, so far as the inconsistency extends;

(b) provisions applicable, only to special suits or proceedings outside the scope of this Act; and

(c) the provisions contained in List I of the Second Schedule,

shall apply to all suits and other proceedings under this Act, subject to the modifications contained in List II of the Second Schedule.

V of
1908.

V of
1908.

(2) The rules mentioned in the Second Schedule of this Act, shall be interpreted, as referring to rules contained in the First Schedule to the Code of Civil Procedure 1908, as altered or added to by the High Court of Judicature at Allahabad under section 122 of the Code of Civil Procedure, 1908.

244. In any suit brought under section 180, section 183 or Chapter IX, or in deciding an application under section 175, which is treated as a suit under the provisions of section 179, the court may, on the application of the plaintiff and after framing the necessary issues, grant any relief which the court is competent to grant, and to which it may find the plaintiff entitled, notwithstanding that such relief may not have been asked for in the plaint:

Provided that, after framing such issues the court shall, on the request of either party, grant reasonable time for the production of evidence.

245. (1) The lambardar in an undivided mahal or in the common land of a mahal, thok or patti of which he is the lambardar, is entitled, in the absence of any contract or usage to the contrary, to collect rents and other dues.

(2) Wherever the lambardar is entitled under the provisions of sub-section (1) to collect rents, he shall also be entitled to settle and eject tenants, to eject rent-free grantees, or grantees at a favourable rate of rent, to enhance rents, and to do all acts incidental to the proper management of the estate with a view to the common benefit:

Provided that a lambardar shall not be entitled on behalf of other co-sharers without their written consent to—

(a) grant a theka;

(b) sell or cut down trees or groves;

(c) grant permission to erect buildings on the holding of a tenant.

Application
of the Code
of Civil
Procedure
1908.

Provisions
for granting
any relief to
which
plaintiff
entitled.

Powers of
lambardar.

Suit, etc. by co-sharers in undivided property.

246. (1) Except as otherwise provided in sub-section (3) or in section 245, where there are two or more co-sharers in any right, title or interest, all things required or permitted to be done by the possessor of the same shall be done by them conjointly, unless they have appointed an agent to act on behalf of all of them.

(2) Nothing in sub-section (1) shall affect any local usage or special contract by which a co-sharer in an undivided property is entitled to receive separately the whole or his share of the rent payable by a tenant.

(3) When one or two or more co-sharers is not entitled to sue alone and the remaining co-sharers refuse to join as plaintiffs in a suit for money recoverable by them jointly, such co-sharer may sue separately for his share joining the remaining co-sharers as defendants.

(4) Where the tenant of a holding or the illegal transferee of such tenant is also a co-sharer in the proprietary right in such holding, nothing in this section shall require him to be joined as plaintiff in any suit or application brought or made against him as such tenant or illegal transferee under the provisions of this Act.

Procedure when plea of payment in good faith to a third person is taken.

247. (1) When in any suit brought under this Act by a landholder against an under-proprietor or a tenant for arrears of rent the under-proprietor or the tenant pleads that he has paid the rent of the holding for the period in respect of which the suit is brought to a third person whom he in good faith believed to be entitled to receive such rent, the court shall, at the cost of such under-proprietor or tenant, as the case may be, make such third person a defendant in the suit and shall inquire into and decide the question.

(2) If the question is determined in favour of the under-proprietor or the tenant, the suit shall be decided in his favour and he shall not be made a party to any subsequent suit between the landholder and the third person for the recovery of the amount so paid or for the determination of the proprietary right in the holding.

Registration of encumbrance created by under-proprietor.

248. A beneficial lease or other encumbrance created by an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent unless the encumbrance has been registered under any rule or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

Proprietor's lien for rent payable by under-proprietor.

249. (1) When an under-proprietor creates any such encumbrance and fails to pay to the proprietor all or any portion of the rent subsequently accruing in respect of the land subject to such encumbrance the encumbrancer shall be liable to pay to the proprietor such rent or such portion as case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the encumbrancer under this section.

(2) Where an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession the transferee shall, subject to any agreement in writing with

the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

250. (1) When land in Oudh is sold in execution of a decree under this Act, and the land or any part thereof has been knocked down to a stranger, any co-sharer of the judgment debtor but not the judgment-debtor, may, before confirmation of the sale claim to take such land or part of the highest bid.

Right of
pre-emption
at execution
sale in
Oudh.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under-proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed:

Provided that a claim made under the provisions of sub-section (1) shall prevail over a claim made under the provisions of sub-section (2):

Provided further that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser:

Provided further that if two or more persons equally entitled make valid claims within the time allowed lots shall be drawn.

251. (1) The interest of a tenant holding on special terms in Oudh, of an expropriatory tenant, of an occupancy tenant, or of a hereditary tenant in his holding or in any part thereof may be sold in execution of a decree for arrears of the rent of such holding and, unless such interest is purchased by the landholder thereof, the purchaser shall, subject to the provisions of sub-section (3), have the same interest in such holding or such part and be subject to the same liabilities in respect of such holding or such part as the tenant.

Sale of
certain
tenant's
interest for
arrears of
rent.

(2) Before selling the interest of a tenant in a part only of his holding in accordance with the provisions of sub-section (1), the court executing the decree shall, in accordance with rules made by the Board, distribute the rent of the holding over such part and the remainder of the holding.

(3) When such interest is sold either—

- (a) a sub-tenant of such holding; or
- (b) an agricultural or other labourer or a servant of the village community who permanently resides in the village and does not belong to any of the classes mentioned in clauses (c) to (e); or
- (c) a person, who is not a proprietor or an under-proprietor in the village and who cultivates land and resides in the village; or
- (d) the landholder; or
- (e) a person who is a proprietor or an under-proprietor in the village.

may in the above order of priority, within fifteen days of the date of sale, claim to take such interest at the highest bid:

Provided that where two or more persons belonging to the same class, being a class mentioned in (a), or clause (c), claim to take such interest, preference shall be given to the

claimant who cultivates the smallest area in the village; and where two or more such claimants cultivate the same area, preference shall be decided by lot :

Provided further that if two or more persons belonging to the same class, being a class mentioned in clause (b) or clause (c), claim to take such interest preference shall be decided by lot :

Provided also that if such interest is not claimed by such sub-tenant the landholder may within fifteen days of the sale claim to take such interest on payment of the highest bid together with a sum equal to five per cent. thereon and such claim shall have priority over any other claim.

Lease in
execution of
decree for
arrears of
rent.

252. (1) Instead of selling the interest of a tenant in the whole or a part of his holding the court executing a decree for arrears of rent may lease such whole or part for a period which shall not exceed six years to any person who pays into court the amount of such decree.

(2) If the whole of the tenant's holding is leased under the provisions of sub-section (1) the lessee shall be liable to pay to the landholder the rent previously payable by the tenant for the holding and if a portion only of such holding is so leased the lessee shall be liable to pay to the landholder such portion of the rent previously payable by the tenant for such holdings as may be determined by the tahsildar in accordance with rules made by the Board and the tenant shall be liable to pay the remainder of such rent.

(3) In addition to depositing the amount specified in sub-section (1) a person obtaining a lease of land under the provisions of this section shall deposit an amount equal to the rent annually payable by him under such lease and such amount shall be deemed to be a deposit made under the provisions of section 137 of the rent due by him in respect of the last year for which he is entitled to hold under such lease or, if he surrenders or abandons such land or is ejected therefrom, before the expiry of such lease, in respect of the last year for the rent of which he is liable,

(4) Notwithstanding anything in this Act, a person obtaining a lease under the provisions of this section shall be a non occupancy tenant.

(5) On the expiry of the term of a lease given under the provisions of this section or on ejection of the lessee or on his surrender or abandonment of such land, the same rights shall, subject to the provisions of sub-section (6) regarding surrender and abandonment, accrue to the tenant in such land as he possessed before the granting of such lease.

(6) At any time during the period of a lease given under the provisions of this section the tenant may in accordance with the provisions of sections 82 to 88 surrender or abandon the holding or the portion leased and during the period of such lease the tenant shall for the purposes of sections 33 to 38 be deemed to possess an interest in the portion leased.

- IX of 1908. 253. Subject to the provisions of this Act, the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to suits and other proceedings under this Act. Application of Limitation Act.
254. The suit and other proceedings specified in the Fourth Schedule shall be instituted within the time prescribed in that Schedule for them respectively. Limitation in cases under the Act, 1901.
255. The court-fees payable in suits and on applications under this Act shall be as specified in the sixth column of the Fourth Schedule. Court-fees payable.

Powers of courts

256. (1) The Board may sit for the disposal of cases under this Act at the headquarters of any district. Place of sitting of revenue court.
 (2) Every other revenue court shall sit for the disposal of such cases as provided in section 18^v of the United Provinces Land Revenue Act, 1901.
- U. P. 257. An assistant collector of the second class shall have power to dispose of all suits specified in serial nos. 1 to 6, inclusive of group A of the Fourth Schedule, in which the value of the subject-matter does not exceed two hundred rupees, and except as otherwise provided in this Act a tahsildar shall have power to dispose of all applications included in group C of that Schedule. Power of assistant collector of the second class.
258. An assistant collector of the first class shall have power to dispose of all suits specified in groups A and B of the Fourth Schedule. Powers of assistant collector of the first class.
259. An assistant collector in charge of a sub-division shall have power to dispose of all applications specified in group D of the Fourth Schedule. Powers of assistant collector in charge of a sub-division.
260. A collector shall have all the powers which may be exercised under this Act by an assistant collector in charge of a sub-division and in addition shall also have power to dispose of the applications specified in group E of the Fourth Schedule. Powers of collector.
261. The State Government may confer on an assistant collector of the first class all or any of the powers of a collector under this Act, and such assistant collector shall exercise such powers in respect of such cases or classes of cases as the collector may direct. Investment of assistant collector with the powers of collector.
262. (1) Notwithstanding anything in section 15 of the Code of Civil Procedure, 1908—
 (a) all suits specified in serial nos. 1 to 6, inclusive of group A of the Fourth Schedule in which the value of the subject-matter does not exceed two hundred rupees, and all applications included in group C of that Schedule shall be instituted in the court of the tahsildar;
 (b) all suits under serial nos. 7 to 16, inclusive, of group A of the Fourth Schedule and all other suits included in that group in which the value of the subject-matter exceeds two hundred rupees and all suits included in group B of that Schedule, and all applications included in group D of that Schedule, shall be insti- Court in which proceedings to be instituted.
- V of 1908.

tuted in the court of the assistant collector in charge of the sub-division:

Provided that if there is no assistant collector in charge of the sub-division, all such suits and application shall be instituted in the court of the collector:

Provided also that the collector may by written order direct that any class of suits or applications referred to in this sub-section shall be instituted in the court of any other assistant collector competent to try them under the provision of this Act.

(2) All applications included in group E of the Fourth Schedule shall be made in the court of the collector.

(3) All applications included in group F of the Fourth Schedule shall be made in the court empowered to entertain them under the provisions of this Act.

Appeals

Appeal to be as allowed by Act.

263. No appeal shall lie from any decree or order passed by any court under this Act except as provided in this Act.

Appeal from decree of assistant collectors of the second class.

264. Except as provided by section 286 an appeal shall lie to the collector from every decree of an assistant collector of the second class.

Appeal from decree of assistant collectors of the first class or of collector to commissioner or civil court.

265. (1) An appeal shall lie to the district judge from the decree of an assistant collector of the first class or of a collector in any of the suits included in group A of the Fourth Schedule in which—

(a) the amount or value of the subject-matter of the appeal exceeds fifty rupees; or

(b) the liability to pay rent or the amount of rent annually payable has been in issue in the court of first instance, and is in issue in the appeal; or

(c) the amount of rent payable separately to one or more of a number of co-sharers has been in issue in the court of first instance, and is in issue in the appeal; or

(d) in any suit under the provisions of Chapter XII in which the liability to pay revenue or rent or the amount of the revenue or rent annually payable has been in issue in the court of first instance, and is in issue in appeal:

Provided that when the amount or value of the subject-matter of the suit exceed five thousand rupees the appeal shall lie to the High Court.

(2) Subject to the provisions of sub-section (3) of this section and of section 202, an appeal shall lie to the commissioner from the decree of a collector or of an assistant collector of the first class in all suits included in group B of the Fourth Schedule.

(3) An appeal shall lie to the district judge from the decree of an assistant collector of the first class or of a collector in all suits in which a question of jurisdiction has been decided and is in issue in the appeal:

Provided that when the amount or value of the subject-matter of the suit exceeds five thousands rupees the appeal shall lie to the High Court.

266. An appeal to the district judge from the appellate decree of a collector in any suit in which a question of jurisdiction has been decided and is in issue in appeal.

Appeal for appellate decree of collector.

V of 1908.

267. An appeal shall lie to the Board from the appellate decree of a commissioner on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

Appeal from appellate decree of commissioner.

268. The board may either admit an appeal or may summarily reject it.

Powers of Board to reject an appeal summarily,

269. An appeal shall lie to the High Court from the appellate decree of a district judge on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

Appeal from appellate decree of district judge.

V of 1908.

270. Except as otherwise provided in this Act an appeal shall lie to the collector from every order, including an order rejecting an application for review, passed by an assistant collector of the second class.

Appeal to collector from order of assistant collector of the second class.

271. (1) An appeal shall lie to the collector from the order of an assistant collector of the first class and to the commissioner from the original order of a collector, in any or the cases specified below, namely—

Appeal from order of assistant collector of the first class, and of collector, in certain cases.

(a) an order deciding a question regarding compensation for improvements under section 159; or determining the value of crops on trees or the amount of compensation under the provisions of section 160;

(b) an order under section 170, extending or refusing to extend the time for payment;

(c) an order under section 15, section 16, section 18, section 53, section 64, sections 72 to 75, section 77, sections 79 to 81, section 95, section 126-A, section 251, section 252 and section 294.

(2) An appeal shall lie from an order mentioned in section 47 or section 104 or section 144 or in Order XLIII, rule 1 of the Code of Civil Procedure, 1908, and made by an assistant collector of the first class or a collector.

V of 1908.

Such appeal shall lie to the court, if any, having jurisdiction under section 265 of this Act to hear an appeal from the decree in the suit, or in the case of an application for execution, to the court having jurisdiction to hear an appeal from the decree which is being executed.

272. No appeal shall lie from any order passed in appeal under the provisions of sub-section (7) of section 126, section 126-A, section 270 or section 271.

No appeal from appellate orders.

*See U.P. X Act of 1947.

Review

Review by
Board.

273. The Board on its own motion or on the application of a party to the case, may review and may rescind, alter or confirm any decree or order made by itself, or by a single member.

Review by
other courts.

274. Every other court shall be competent to review its judgment in accordance with the provisions of the Code of Civil Procedure, 1908, and the provisions of order XLVII of the said Code shall apply to any such review.

v of
1908.

Revision

Power of
Board to
call for
cases.

275. The Board may call for the record of any case decided by any subordinate revenue court in which no appeal lies either to the district judge or the Board, and if such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the Board may pass such order in the case as it thinks fit.

Power of
High Court
to call for
cases.

276. The High Court may call for the record of any suit or application which has been decided by any subordinate revenue court, and in which an appeal lies to the district judge and in which no appeal lies to the High Court and if the district judge or such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the court may pass such order in the case as it thinks fit.

Transfer of cases

Transfer of
cases by
Board.

277. The Board may, on sufficient cause being shown, transfer may withdraw any case or class of cases from an assistant settle-appeals from any revenue court to any other revenue court competent to deal therewith.

Transfer of
cases by
commis-
sioner.

278. A commissioner may exercise within the limits of his division the same powers as the Board under the last preceding section.

Transfer of
appeal by
commis-
sioner to
collector.

279. (1) A commissioner may, with the previous sanction of the Board, transfer any appeal or class of appeals, pending before himself, to any collector within his division.

(2) The order passed by a collector on an appeal transferred to him by a commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as it had been passed by the commissioner.

(3) The commissioner may by order recall to his own court any appeal or class of appeals transferred to a collector under sub-section (1).

280. A collector with the previous sanction of the commissioner, or an assistant collector in charge of a sub-division with the previous sanction of the collector, may transfer any case or class of cases pending before himself, to any subordinate court competent to deal therewith.

Transfer of cases by collector or assistant collector.

281. A collector or an assistant collector in charge of a sub-division may withdraw any case or class of cases from any court subordinate to him, and may try such case or class of cases himself, or transfer such case or class of cases to any other subordinate court competent to deal therewith.

Withdrawal of cases by collector or assistant collector.

282. For the purposes of sections 280 and 281 the courts of all assistant collectors shall be deemed to be subordinate to the collector and the courts of all assistant collectors of the second class to be subordinate to the assistant collector in charge of the sub-division within which they exercise jurisdiction.

Subordination of court.

283. A settlement officer may transfer any case or class of cases pending before him to any assistant settlement officer, and may withdraw any case or class of cases from an assistant settlement officer and may try such case or class of cases himself, or transfer the same to any other assistant settlement officer.

Transfer and withdrawal by settlement officer.

284. A district judge may, with the previous sanction of the High Court transfer any appeal or class of appeals, from the decree or order of a revenue court pending before himself, to a civil judge subordinate to him and such civil judge shall dispose of such appeal or class of appeals as if he were a district judge.

Transfer revenue appeals by district judge.

285. A district judge may withdraw from a civil judge any appeal or class of appeals from a decree or order of a revenue court and try such appeal or class of appeals himself or transfer such appeal or class of appeals to any other civil judge competent to deal therewith.

Withdrawal of revenue appeals by district judge.

Questions of proprietary right in revenue courts

286. (1) If in any suit or proceeding in a revenue court a question of proprietary right in respect of the land which forms the subject-matter of the suit or proceedings is raised, and such question has not previously been determined by a court of competent jurisdiction, the revenue court shall frame an issue on the question of proprietary right and submit the record to the competent civil court for the decision of that issue only :

Procedure when plea of proprietary right raised.

Explanation I—A plea of proprietary right which is clearly untenable and intended solely to oust the jurisdiction of the revenue courts shall not be deemed to raise a question of proprietary right within the meaning of this section.

Explanation II—A question of proprietary right does not include the question whether land is *sir* or *khudkasht*.

(2) The civil court, after re-framing the issue, if necessary, shall decide such issue only and return the record together with its finding thereon to the revenue court which submitted it.

(3) The revenue court shall then proceed to decide the suit, accepting the finding of the civil court on the issue referred to it.

Procedure in appeal when material for determining question of proprietary right not on record.

Procedure when plea of tenancy raised in civil court.

Power to refer question of jurisdiction to High Court.

(4) An appeal from a decree of a revenue court passed in a suit in which an issue involving a question of proprietary right has been decided by a civil court under sub-section (2) shall lie to the civil court which having regard to the valuation of the suit, has jurisdiction to hear appeals from the court to which the issue of proprietary title has been referred.

287. If in any appeal filed under the provisions of sub-section (4) of section 236 the appellate court has not before it all the material necessary for the determination of the question of proprietary right it may either,

(a) remand the case to the civil court which decided the issue on the question of proprietary right, or

(b) frame a fresh issue with respect to such question and refer it for trial to any subordinate court of competent jurisdiction.

Questions of tenant right in civil courts

288. (1) If in any suit relating to agricultural land instituted in a civil court, any question regarding tenant right arises and such question has not previously been determined by a court of competent jurisdiction, the civil court shall frame an issue on the plea of tenancy and submit the record to the appropriate revenue court for the decision of that issue only.

Explanation—A plea of tenancy which is clearly untenable and intended only to oust the jurisdiction of the civil court shall not be deemed to raise a plea of tenancy.

(2) The revenue court after re-framing the issue if necessary, shall decide such issue only, and return the record together with its finding thereon to the civil court which submitted it.

(3) The civil court shall then proceed to decide the suit, accepting the finding of the revenue court on the issue referred to it.

(4) The finding of the revenue court on the issue referred to it shall for the purposes of appeal, be deemed to be part of the finding of the civil court.

Conflict of jurisdiction

289. (1) Where either a civil or a revenue court is in doubt whether it is competent to entertain any suit, application or appeal, or whether it should direct the plaintiff, applicant or appellant to file the same in a court of the other description, the court may submit the record with a statement of the reasons for its doubt to the High Court.

(2) Where any suit, application or appeal, having been rejected either by a civil court or by a revenue court on the ground of want of jurisdiction, is subsequently filed in a court of the other description, the latter court, if it disagrees with the finding of the former, shall submit the record, with a statement of the reasons for its disagreement to the High Court.

(3) In cases falling under sub-section (1) or sub-section (2), if the court is a revenue court subordinate to the collector, no reference shall be made under the foregoing provisions of this section except with the previous sanction of the collector.

(4) On any such reference being made, the High Court may order the court either to proceed with the case, or to return the plaint, application or appeal for presentation to such other court as it may declare to be competent to try the same.

(5) The order to the High Court shall be final and binding on all courts, subordinate to it or to the Board.

290. When in a suit instituted in a civil or revenue court, an appeal lies to the district judge or to the High Court, an objection that the suit was instituted in the wrong court shall not be entertained by the appellate court unless such objection was taken in the court of first instance; and the appellate court shall dispose of the appeal as if the suit had been instituted in the right court.

Plea in appeal that suit was instituted in wrong court.

291. (1) If in any such suit such objection was taken in the court of first instance, and the appellate court has before it all the material necessary for the determination of the suit, it shall dispose of the appeal as if the suit has been instituted in the right court.

Procedure when objection was taken in the court of first instance.

(2) If the appellate court has not before it all such materials, and remands the case, or frames issues and refers them for trial, or requires additional evidence to be taken, it may direct its order either to the court in which the suit was instituted or to such court as it may declare to be competent to try the same.

(3) No objection shall be taken or raised in appeal or otherwise to any such order on the ground that it has been directed to a court not competent to try the suit.

CHAPTER XV

Power to make rules.

292. The State Government may, after previous publication, make rules consistent with this Act—

Power of State Government to make rules.

(a) as to the fees payable under this Act;

(b) as to the time of the year for execution of decrees for ejectment in any local area;

(c) as to the attestation of leases, counterparts and agreements under section 57;

(d) as to the dates on which profits shall be divisible;

(e) generally for giving effect to the provisions of this Act.

293. The Board may, with the previous sanction of the State Government, and after previous publication, make rules consistent with this Act and with any rules made under section 292—

Power of Board to make rules.

(a) for the guidance of officers in the determination, enhancement, abatement, and commutation of rent;

- (b) for the guidance of officers deciding applications under sections 15 and 16 and section 18;
- (c) for the guidance of officers deciding suits under section 49;
- (d) for the guidance of officers deciding applications under sections 53 and 54;
- (e) for the guidance of rent-rate officers;
- (f) as to the manner of publication of a notice of abandonment;
- (g) as to the manner and order of preference in which land shall be let by the landholder or collector under section 126-A;
- (h) as to the procedure to be followed in applications under this Act;
- (i) for the guidance of officers in executing a decree for arrears of rent by sale or lease of the interest of a tenant in a holding or part of a holding;
- (j) as to the transfer of cases by revenue courts;
- (k) as the person before whom and the mode in which affidavits may be made and the matters which may be proved by affidavit; and
- (l) generally for giving effect to the provisions of this Act.

CHAPTER XVI

Transitional Provisions

Application
by ejected
tenant for
reinstatement in his
holding.

294. (1) If after the first day of April, 1937, a tenant was ejected from his holding for non-payment of arrears of rent due on account of *kharif* 1344 *Fasli* or any previous instalments he may within six months of the commencement of this Act apply to the court which passed the order of ejectment to be reinstated in his holding and on receipt of such application the court after making such enquiry as it thinks fit shall order that the applicant be put in possession of the holding from which he was ejected and that any other person in possession of such holding be ejected therefrom:

Provided that if such holding or a part thereof was let to another person in the agricultural year 1345 *Fasli* and has since been continuously so let, no order shall be passed under this section in respect of such holding or such part as the case may be.

(2) No person shall be reinstated in his holding or any part thereof under the provisions of this section unless within such time as may be allowed by the court he pays to the landholder—

- (a) the cost of the proceedings which resulted in his ejectment, and
- (b) any amount that may have been paid to him by the landholder as compensation for improvements when he was so ejected, and
- (c) in a case in which the landholder has made an improvement on the holding, since such ejectment, compensation for such improvement calculated in accordance with the provisions of this Act.

*See U. P. Act X 1947.

(3) No person shall be ejected from his holding under the provisions of this section until he has received compensation for any improvement made by him calculated in accordance with the provisions of this Act.

(4) On reinstatement the rights and liabilities of the applicant in respect of land from which he was ejected shall revive :

Provided that if he is reinstated in a part only of the land from which he was ejected, the applicant shall be liable to pay such rent as the court ordering such reinstatement may decide.

295. Notwithstanding any contract to the contrary or anything in this Act or any other law for the time being in force every person who at the commencement of this Act is a sub-tenant in Oudh shall be entitled to retain possession of his holding for a period of five years from such commencement, and for this period nothing in sub-section (2) of section 44 or section 171 shall render the landholder of such sub-tenant liable to ejectment under the provisions of section 171 :

Right of a sub-tenant in Oudh to retain possession of his holding.

Provided that nothing in this section shall authorize a sub-tenant of a person who belongs to one of the classes mentioned in section 41 to retain possession of his holding after the disability of such person has ceased.

*295-A. Notwithstanding any contract to the contrary or anything contained in this Act or any other law for the time being in force every person who on the date of the commencement of the United Provinces Tenancy (Amendment) Act, 1947, is a sub-tenant shall, subject to the provisions of the proviso to sub-section (3) of section 27 of the United Provinces Tenancy (Amendment) Act, 1947, be entitled to retain possession of this holding for a period of five years from that date and for this period nothing in sub-section (2) of section 44 or section 171 shall render the landholder of such sub-tenant liable to ejectment under the provisions of section 171 :

Provided that nothing in this section shall authorize a sub-tenant of a person who belongs to one of the classes mentioned in section 41 to retain possession of his holding after the disability of such person has ceased.

296. A suit under any of the provisions of the Agra Tenancy Act, 1926 or the Oudh Rent Act, 1886, which is pending at the commencement of this Act or a decree under any of the provisions of either of these Acts, which has not been satisfied in full at such commencement, shall be decided or executed, as the case may be, in accordance with the corresponding provision of this Act and if there is no such corresponding provision, the proceedings relating to such suit or decree shall be quashed.

Disposal of pending suits.

U.P.
III of
1926.
XXII
of
1886.

*See U. P. Act X of 1947

THE FIRST SCHEDULE

(See section I)

Areas to which the Act will not apply in the first instance

I—The districts of Almora and Garhwal.

II—In the district of Naini Tal—

(a) the Naini Tal sub-division ;

(b) the following villages of the Tarai and Bhabar Government estates :

Pargana Bospur

Bajawala.	Gulzarpur.
Bannakhera.	Hazaria.
Bannakhera Sani.	Haripura.
Banskhera.	Harsan.
Banskheri.	Khamari.
Baraihi.	Maindaya Hattoo.
Bhainsia.	Rajpura no. 1.
Bhajanagala.	Ratanpuri.
Bhikampur.	Somalpuri.
Bijai Rampura.	Sheopuri.
Chanakpur.	Thapaknagala.
Gularia Gobra.	Kalabandwari.
	Faridpur.

Pargana Gadarpur

Alakhdei.	Madnapur.
Anokhera.	Maholi Jungle.
Beria.	Mukandpur.
Bari Rain.	Nandpur.
Buxaura.	Pipalia.
Khanpur Pachcham.	Kopa.
Khanpur.	Jafarpur.
Kulha.	Gadarpuri.

North of Kashipur

Kamdebpur.	Kandala.
Beria.	Birpur Lachi.
Lalitpur.	Birpur Tara.
Karailpuri.	Rajpur.
Thari.	Pipalsana.

In Khushalpur Circle

Khushalpur.	Lampur Lach.
Lampur Moti.	Shahbazpur.

(c) the Bhabar villages in the Tarai and Bhabar sub-division which are settled with zamindars.

THE SECOND SCHEDULE

(See section 243).

Application of the Code of Civil Procedure, 1908,

LIST I

*Sections and Orders of the Code of Civil Procedure, 1908
which do not apply to suits or proceedings under this Act*

Section 9.

Sections 68 to 72 inclusive.

Section 88.

Sections 113, 114, 115.

Order XXII, rule 8.

- " XXXIII (Pauper suits). The whole.
- " XXXV (Interpleader suits). The whole.
- " XXXVI (Special case). The whole.
- " XLIV (Pauper appeals). The whole.
- " XLVI (Reference). The whole.

List II

Sections and Orders of the Code of Civil Procedure, 1908, which apply subject to the modifications stated against each

Serial no.	Sections	Modifications
1	24	Applies only to the transfer of appeals under this Act by the High Court from the court of one district judge to the court of another district judge.
2	33	No decree need be prepared in the case of an application under this Act unless the preparation of a decree is prescribed by rule.
3	58 (2) ..	Where a judgment-debtor has been released from detention under this section the court may declare him absolved from further liability for payment of money under that decree, and such liability shall thereupon be extinguished.
4	60	To the particulars not liable to attachment or sale shall be added "manure stocked by an agriculturist."
5	98	Nothing in this section shall require two members of the Board to sit together in the exercise of appellate or revisional jurisdiction under this Act.
6	144	In this section the words "or order" shall be deemed to be inserted the word "decree" wherever it occurs.
7	Order V, rules 9 to 30.	A summons or notice may, if the State Government by rule, either generally or in respect of any local area or class of cases, so direct to be served by post in addition, to another mode of service.
8	Order VII, rule I	In addition to the particulars contained in this rule, the plaintiff shall specify the name of the village and mahal and of the pargana or other local division, in which the land is situated to which the suit or other proceeding relates, and unless such land can be otherwise adequately described, the number of each field according to the Government survey; and if the suit is for arrears of rent, the plaintiff shall contain a statement of account showing the annual demand for each period to which the suit relates, the amount, if any, received and the amount claimed to be due; and if the suit is for ejectment of a tenant, the plaintiff shall set forth the ground or grounds on which the ejectment is sued for.
9	Order XX, rule 6	Every decree for rent shall also state the amount including interest due on account of each agricultural year in respect of which relief is granted.
10	Order XXI ..	(1) No application for the execution of a decree shall be made by an assignee of the decree unless the assignor's interest in the land to which it relates has become and is vested in such assignee.
11	(2) If the property against which execution is applied for is a mahal or a share of a mahal, or the holding of a permanent tenure-holder, or the fixed-rate tenant or an under-proprietor, the decree shall be sent to the collector, who shall execute the same as if it had been a decree of his own court.

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U. P. Tenancy Act

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Serial No.	Orders	Modifications
12	Order XLI, rule, I read with Order XLII.	In addition to the copies required by this rule every memorandum of second appeal shall be accompanied by a copy of the judgment of the original court.
13	Order XLI, rule II	Nothing in this rule shall require the Board to hear any party before rejecting an appeal summarily.
14	Order XLI, rules, 30 and 31.	No judgment of the Board need be dated or signed, or pronounced in open court.

THE THIRD SCHEDULE

(See section 55)

FORM OF LEASE OR COUNTERPART

I, $\frac{A, B,}{F, B,}$ son of $\frac{G, D,}{H, I,}$ resident of J/E have $\frac{\text{leased}}{\text{taken on lease}}$
 the undermentioned land $\frac{\text{to } F, G,}{\text{from } A, B,}$ son of $\frac{H,}{C, D,}$ resident of
 J/E in mahal K, mauza L.

(here adequately describe the holding and give details mentioned in section 55) at an annual rent of Rs. (), payable in the following instalments and on the following dates, namely:

() Rs. on the () day of ()
 () Rs. on the () day of ()
 () Rs. on the () day of ()
 () Rs. on the () day of ()

*the period of the lease being for () years, that is to say, from (date) to (date)

Dated the () day of (), 19 .

Signed (A, B, landholder,
 (or marked) F. G. tenant.)

Witness, (if marked) M. N.

*To be filled up in the case of non-occupancy tenants only, and to be struck out in all other cases.

THE FOURTH SCHEDULE

Powers of Courts, etc.

The jurisdiction both original and appellate specified in the heading of each group is in all cases subject to the provisions of sections 264, 286 and 288.

Group A—Suits

[Suits triable by assistant collector of the first class—appeal, if any, to the civil court; suits under serial nos. 1 to 6 inclusive when not exceeding Rs. 200 in value are triable by an assistant collector of the second class—appeal to collector.]

Serial no.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper court-fee
1	140	For recovery of a deposit of rent	Three years	When the amount deposited was paid by the tabdār.	As in the Court Fees Act 1870.
2	144, 148	For arrears of rent	Ditto	Fifteen days after the arrears became due.	Ditto.
3	149	For recovery of rent paid by or recovered from a co-tenant on account of another co-tenant.	Ditto	Date of payment or recovery.	Ditto.
4	152	For the recovery of canal dues	Ditto	Date of delivery of canal jāmalbandī.	Ditto.

Serial no.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper court fees
5	154 (4) (b)	To recover an amount realized in excess..	Three years	When the excess was realized.	As in the Court Fees Act, 1870.
6	153 (5) 158 (3)	For arrears of rent	None	None	Ditto.
7	172	For the ejectment of a tenant	One year	When the declarant or inconsistent act is done or the condition is broken.	Ditto.
8	174	For an injunction, or for the repair of damage or waste, or for compensation.	Ditto	When the damage is done or the waste is begun, or the condition is broken.	Ditto.
9	224	By a landlord to recover from a co-sharer arrears of revenue or rent village expenses and other dues.	Three years	When the arrears became due.	Ditto.
10	225	By landlord to recover from joint landlord who defaults arrears of revenue or rent paid by the former on account of the latter.	Ditto	When the rent or revenue was paid.	Ditto.
11	226	By a co-sharer to recover from a landlord or another co-sharer who defaults arrears of revenue or rent paid by the former on account of the latter.	Ditto	When the arrears were paid.	Ditto.
12	227	By a landlord or assignee of revenue for arrears of revenue due to him as such.	Ditto	When the arrears became due.	Ditto.

13	228	By a superior proprietor for arrears of revenue or rent due to him as such.	Ditto ..	Ditto.	Ditto.
14	230	By a co-sharer against a landholder for his share of the profits of a mahal, or of any part thereof.	Ditto ..	When profits became divisible under Section 229.	Ditto.
15	231	By a co-sharer against a co-sharer for a settlement of accounts and his share of the profits of the mahal, or of any part thereof.	Ditto ..	Ditto.	Ditto.
16	236(a)	For compensation for any sum of produce collected in excess of the amount due.	Three months	The date of collection ..	Eight annas.
	236(b)	For compensation for charging interest at a rate exceeding that allowed by the Act.	Ditto ..	The date of the charging ..	Ditto.
	236(c)	For compensation for infringing the provisions of Section 90 or collecting any sum not recoverable under Section 91.	Ditto ..	The date of this collection or infringement.	Ditto.
	236(d)	For compensation for collecting reutilised or suspended rent.	Six months ..	Ditto.	Ditto.
	236(e)	For compensation for crediting payment made towards rent or sayar otherwise than to rent or sayar, or otherwise than in accordance with the provisions of Section 130.	Ditto ..	The date when payment wrongly credited.	Ditto.

GROUP B—Sums

[Suits triable by assistant collector of the first class—appeal to commissioner except in the case of serial Nos. 20, 21 and 22, which are governed by Section 202.]

Serial no.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper Court-fees
1	49	For division of a holding and distribution of rent.	None	None	As in Court Fees Act, 1870, on rent payable in respect of the part to be separated.
2	55	For a lease or counterpart	Do.	Do.	Eight annas.
3	59	For a declaration of plaintiff's right as tenant or for a share in a joint holding.	Do.	Do.	Ditto.
4	60	By a landlord for a declaration of the right of a person claiming to be tenant.	Do.	Do.	Ditto.
5	61	For a declaration as to any matters specified in Section 55 (2).	Do.	Do.	Ditto.
6	63	For a declaration that land claimed as tenancy is <i>ast</i> or <i>shadast</i> or vice versa.	Do.	Do.	Ditto.
7	85	To have a notice of surrender declared invalid.	Fifteen days	The date of the receipt or service of the notice.	Ditto.
8	94	For determination of rent and for arrears.	As in Section 94.	As in section 94	As in the Court Fees Act, 1870.

Serial No.	Section of Act	Description of suit	Period of limitation	Time from which period begins to run	Proper court-fees
19	183	(b) in any other case ..	Six years ..	From the 1st July following the date of each occupation or following the date of the commencement of this Act, whichever is later.	As in the Court Fees Act, 1870, on the rent payable
		(2) in any other case— (a) if such person has, at the commencement of this Act, occupied the land for more than nine years since the landholder first knew of the unauthorized occupation.	Twelve years	When the landholder first knew of the unauthorized occupation.	Ditto.
		(b) in any other case ..	*Two years ..	From the 1st July following the date of the unauthorized occupation or following the date of the commencement of this Act, whichever is later.	Ditto.
		For recovery of possession of holding or for compensation or both. ..	Three years ..	When the wrongful dispossessed person takes possession or when the tenant is prevented from obtaining possession.	As in the Court Fees Act, 1870.

20	190, 192	For declaration and the assessment of revenue or rent on a grant.	None	..	As in the Court Fees Act, 1870, according to the annual letting value of the land as estimated by the plaintiff.
21	190, 194	For fixing rent on a rent-free grant, or for enhancing rent on grants held at a favourable rate of rent.	Do.	..	Ditto.
22	19, 195	For the ejectment of a rent-free grantee or of a grantee holding at a favourable rate of rent.	Twelve years	..	Ditto.

GROUP C—APPLICATIONS TRIABLE BY THE TAHSILDAR

1	84	For the service of a notice of surrender under Section 82 or 83	As in Section 84	As in section 84	Nil.
2	137	For permission to deposit rent	None	..	(i) If the amount deposited does not exceed Rs. 50—four annas. (ii) If the amount deposited exceeds Rs. 50 but does not exceed Rs. 100—eight annas. (iii) If the amount deposited exceeds Rs. 100—one rupee.

*See Act X of 1947.
*[See Act XLI of 1948. This amendment will have effect from the fourteenth day of June, 1947.]

4	53	For exchange of land	..	Do.	..	Do.	..	As in the Court Fees Act, 1870.	Ditto.
5	70	For permission to make an improvement	..	Do.	..	Do.	..	..	Ditto.
6	71	Ditto.	..	Do.	..	Do.	..	..	Ditto.
7	77	Registration of works	..	Six months	..	The date of the completion of the improvement.	..	Nil.	..
8	79(a) or (d)	For establishment of right to make or benefit from a work.	..	None	..	None	..	As in the Court Fees Act, 1870.	Ditto.
9	79(b) or (e)	For settlement of dispute as to an improvement or as to compensation or abatement of rent.	..	One year	..	The date of the completion of the improvement.	..	..	Ditto.
10	80	For an order prohibiting the planting of trees or removing the trees planted.	..	None	..	None	..	..	Ditto.
11	81	For ownership of trees	..	Do.	..	Do.	..	..	Ditto.

GROUP E—APPLICATIONS TRIABLE BY THE COLLECTOR

1	*Omitted.	..	..	..	..	..	..	..	..
2	*Omitted.	..	..	..	..	..	..	..	..
3	91 (4)	For remission of revenue	..	None	..	None	..	As in the Court Fees Act, 1870.	..
3A	125-A	Utilization of land	..	Do.	..	Do.	..	Nil.	..
4	154	For collection of rent or canal dues & as land revenue in case of general refusal to pay.	..	So long as Notification remains in force.	..	When notification in the official Gazette is published.	..	As on the plaint for arrears of rent.	..

§ 866 U. P. Act I of 1940.

* See U. P. Act of 1947.

GROUP F—OTHER APPLICATIONS

Serial No.	Section of Act	Description of application	Period of limitation	Time from which period begins to run	Proper Court-fees
1	95	For determination of rent after ejectment from or surrender or part of holding.	None	None	As in the Court Fees Act, 1870.
2	160	For determination of value of crops or trees and of compensation.	Do.	Do.	Ditto.
3	168	For the ejectment of an expropriatory, occupying or extraordinary tenant on the ground of an unsatisfied decree for arrears of rent.	Two years	On the expiry of one year from the date of the decree.	Ditto.
4	170	For the ejectment of non-occupancy tenant on the ground of an unsatisfied decree for arrears of rent.	Three years	The date of the final decree in the case.	Ditto.
5	..	For the execution of a money decree or a decree under Section 180 or Section 182 in as far as it relates to the payment of damages or compensation not being a decree for a sum exceeding Rs. 500 inclusive of the costs of execution, and such decree or decree for the payment of interest which has been decreed after the execution of the sum decreed.	Ditto.	Ditto.	Ditto.
6	..	For the execution of any money decree or a decree under Section 180 or Section 183 in as far as it relates to the payment of damages or compensation for a sum of money exceeding Rs. 500 inclusive of the costs of execution, and such decree or decree for the payment of interest which may have accrued after the execution of the sum decreed.	The period allowed for the execution of a decree of the civil court.	As in the case of a decree of the civil court.	Ditto.

	For the execution of any decree other than a money decree.	One year	The date of the final decree in the case.	Ditto.
7				
8	273 and 274 For a review of judgment	Ninety days	The date of the decree or order.	Ditto.
9	275, 276 For revision	None	None	Ditto.
10	284 For recovery of possession	As in the section.	As in the Section	One rupee.

GROUP G—APPEALS

	To a collector	Thirty days	The date of the decree or order appealed against.	As in the Court Fees Act, 1870.
1	..	..
2	To a commissioner or to a district judge.	Ditto.	Ditto.	Ditto.
3	To the Board or High Court.	Ninety days	Ditto.	Ditto.

THE FIFTH SCHEDULE

(See Section 136)

FORM OF COUNTERFOIL AND RECEIPT FOR RENT

Note.—In the forms sent to Court of Wards estates and to other proprietors if they so desire the receipt portion will be printed in duplicate.

COUNTERFOIL

Book no. _____ Page no. _____
 Receipt no. _____
 Name of landholder _____
 Received from tenant (name and father's name) _____
 village _____, mahal _____, patti _____
 as follows:

Date	By whom paid (description)	Nature of tenant's holding	Kist and year	Whether on account of full or part payment	Amount received
					Rs. a. p.

Signature of landholder or agent.

Note.—Under Section 133 of the United Provinces Tenancy Act, separate receipts must be issued for each payment of rent or of sayar.

RECEIPT

Book no. _____ Page no. _____
 Receipt no. _____
 Name of landholder _____
 Received from tenant (name and father's name) _____
 of village _____, mahal _____, patti _____
 as follows:

Date	By whom paid (description)	Nature of tenant's holding	Kist and year	Whether on account of full or part payment	Amount received
					Rs. a. p.

Signature of landholder or agent.

Note.—Under Section 133 of the United Provinces Tenancy Act, separate receipts must be issued for each payment of rent or of sayar.

THE SIXTH SCHEDULE

(See Section 123)

Provision for the granting of relief in Agricultural Calamities. In this Schedule—

- (1) "harvest" means the *khari* or *rabi* harvest;
- (2) "holding" does not include the holding of an under-proprietor, permanent lessee, permanent tenure-holder, or thekadar;
- (3) "*khudkash*" includes land cultivated by a permanent lessee, or thekadar as such either by himself with his own stock or by servants or by hired labour;
- (4) "landlord" does not include a person with whom a sub-settlement has been made under the provisions of Section 76 of the United Provinces Land Revenue Act, 1901, or with whom a settlement has been made under the provisions of Section 77 of that Act;
- (5) "relief in rent or revenue" means that remission or suspension of such rent or revenue and "relief in rental" means the sum of the relief in rent and of the nominal relief in valuation in a mahal or portion of a mahal;
- (6) "rent" means the amount of rent payable in respect of the harvest affected by the calamity and includes the amount payable by an under-proprietor as defined below;
- (7) "rental" of a mahal or portion of a mahal means the sum of the fixed cash rents of such mahal or portion payable to the landlord and of the valuation of the *sir* and *khudkash* of such landlord and of holdings the rent of which is payable by division of the produce or based on an estimate or appraisement of the standing crops as appertains to the area normally shown in the harvest in which the calamity occurred;
- (8) "under-proprietor" includes an inferior proprietor with whom a sub-settlement has been made in accordance with the provisions of Section 76 of the United Provinces Land Revenue Act, 1901, or with whom a settlement has been made under the provisions of Section 77 of that Act;
- (9) "valuation" means valuation in accordance with the provisions of paragraph 4.

2. (1) Relief in rent of a holding shall ordinarily be given in accordance with the following scale:

Loss measured in annas	per rupee of normal produce	Relief of rent per rupee
Amounting to 8 annas but not amounting to 10 annas	..	6 annas.
Amounting to 10 annas but not amounting to 12 annas	..	10 "
Amounting to and exceeding 12 annas	..	16 "

Provided that in Bundelkhand and in the trans-Jumna parts of the Allahabad, Etawah, Agra, and Muttra Districts and in other areas if justified by the circumstances of the cultivators, suspension or remission of rent to the extent of 4 annas in the rupee may be given when the loss measured in

annas per rupee of the normal produce amounts to 6 annas but does not amount to 8 annas.

(2) When the whole or a part of a holding is sub-let, relief shall be given to the sub-tenant in accordance with the scale applied to such holding, and shall be separate from and independent of the relief given to his landholder which shall be calculated as if no part of the holdings were sub-let.

(3) Normal relief in valuation of *sir* and *khudkasht* and of holdings the rent of which is paid by division of the produce or by an estimate or appraisement of the standing crops, shall be given on the same scale as the relief in rent.

(4) If the whole or a portion of *sir* is let to a tenant, relief shall be given to such tenant in accordance with the scale applied to such *sir* and shall be separate from and independent of the nominal relief in valuation given to the *sir* holder which shall be calculated as if no part of such *sir* were let.

3. The relief in rent payable by under-proprietor, permanent lessee, permanent tenure-holder or thekadar shall be calculated in accordance with the provisions of paragraph 2 and paragraph 4 as if the rent payable by such under-proprietor, permanent lessee, permanent tenure-holder or thekadar were [revenue and as if the rent payable to such under proprietor, permanent lessee, permanent tenure-holder or thekadar were] payable to the landlord, and as if the *sir* or *khudkasht* of such under-proprietor, permanent lessee, permanent tenure-holder or thekadar were the *sir* or *khudkasht* of the landlord.

4. The valuation of *sir* and *khudkasht* and of holdings the rent of which is payable in kind or by an estimate or appraisement of the crop shall be made in accordance with the sanctioned rates applicable to occupancy tenants:

Provided that if special rates are sanctioned for the commutation of rents in kind such rates shall be used for the valuation of such holdings:

Provided further that the Collector may order that the valuation may be made at the average rate of rent payable by hereditary tenants for land in the village less two annas in the rupee or at the average rate paid by occupancy tenants for such land:

Provided also that holdings the rent of which is payable by division of the produce or by an estimate or appraisement of the crops may be valued at the average rate payable for such holdings in the most recent normal year.

5. In any mahal or portion of a mahal in which relief is given in rental, the relief to be given in revenue shall be of the same kind as the relief in rental and shall bear the same proportion to the revenue of such mahal or of such portion as the relief given in rental bears to the rental of such mahal or such portion.

APPENDIX I

[Sections 19, 21, 27, 28, 29, 30 and 31 of the United Province Tenancy (Amendment) Act, X of 1947]

19. [Notwithstanding the expiry of the period of limitation prescribed therefor] in item 19 or group B of Schedule IV to the said Act for suits under Section 183 of that Act, if any tenant was wrongfully ejected from the whole or any part of his holding between the first day of January, 1940, and the first day of September, 1946, he shall be entitled to bring a suit for recovery of possession under that Section within six months from the date of the commencement of this Act.

21. Notwithstanding the period of limitation prescribed in item 16 of group A of Schedule IV to the said Act, for suits under clause (c) of Section 236 of that Act, if any person has infringed the provisions of Section 90 of the said Act between the first day of January, 1940 and the date of the commencement of this Act in admitting to any land a tenant who is declared as subtenant of such land under the proviso to sub-Section (3) of Section 27 of this Act, a suit in respect of such infringement shall lie under the said clause of Section 236 of the said Act within three months from the date of such declaration.

27. (1) If, on or after the first day of January, 1940 any person was ejected from his holding or any part thereof—

Reinstatement of certain ejected tenants.

(a) under Section 165 of the said Act for the non-payment of any amount not exceeding one-fourth of his annual rent after taking into account the payment, if any made by him outside the court, provided that such payment is supported by a receipt.

or

(b) under Section 171 of the said Act, otherwise than on the ground of an illegal transfer by way of sale or gift,

or

(c) under Section 180 of the said Act notwithstanding his having been recorded as an occupant after the first day of January, 1938 in a record revised under Chapter IV of the United Provinces Land Revenue Act, 1901 or corrected by an officer specially appointed by Government for the correction of annual registers in any tract.

he may apply, within six months from the date of the commencement of this Act, to the court, which passed the decree for his ejection, for reinstatement in such holding or part thereof, as the case may be:

Provided that if such holding or part thereof was subject to a mortgage on the date of ejection under Section 171 of the said Act, the mortgagor, and not the mortgagee, shall be entitled to apply for reinstatement under this sub-Section.

See U. P. Act XL of 1948. This amendment will have effect from the fourteenth day of June, 1947.

(2) If, on or after the first day of January, 1940 any tenant of sir, who had become a hereditary tenant in accordance with the provisions of sub-Section (1) of Section 16 of the said Act, was ejected from his holding or any part thereof, or any tenant was dispossessed of his holding or any part thereof, through surrender or otherwise, in consequence of any fraud, misrepresentation, undue influence or coercion practised upon or against him by the landholder or by any person acting on behalf of the landholder, he may apply, within six months from the date of the commencement of this Act, to the court in which a suit would lie under, Section 183 of the said Act in respect of such holding, for his reinstatement in such holding or part thereof, as the case may be.

(3) On receipt of an application under sub-section (1) or sub-Section (2), the court shall give notice to the landholder and to the tenant, if any, in possession of the whole or part of such holding. After making such enquiry as may be necessary, if the court is satisfied that the applicant was so ejected or dispossessed, it shall order that the applicant be re-instated in such holding or part thereof, as the case may be, and that any other person in possession of it be ejected therefrom:

Provided that if such holding or any part thereof is in the possession of any person to whom the landholder had let it out before the first day of September, 1946, such person, not being a relation, dependent or servant of the landholder, the court instead of ordering the ejection of such person, shall, notwithstanding the provisions of any law for the time being in force, declare him to be the sub-tenant of the applicant in respect of such holding of such part. The person so declared as a sub-tenant shall not be liable to ejection until after the expiry of three years from the date of the declaration. In such a case, the rent payable by the applicant to the landholder shall be the rent payable by him for such land before ejection or the amount calculated according to the circle rates, whichever is less, and the rent payable to the applicant by the person declared as sub-tenant shall be the amount payable by such person to the landholder immediately before the declaration or twelve and a half per cent. over and above the amount calculated according to the circle rates applicable to hereditary tenants, whichever is higher.

(4) The applicant shall not be reinstated in such holding or in any part thereof, unless within such time as may be allowed by the court, he pays to the landholder—

(i) any amount that may have been paid to him by the landholder as compensation for improvements when he was so ejected;

(ii) in a case in which the landholder has made any improvement on such land since such ejection, compensation for such improvement calculated in accordance with the provisions of the said Act; and

(iii) in a case falling under clause (a) of sub-Section

(1) the amount that may be found to be due in accordance with that clause.

(5) On reinstatement, the rights and liabilities of the applicant existing on the date of his ejection or dispossession in respect of the holding or any part thereof from which he was ejected or dispossessed, shall revive subject to the proviso to sub-Section (3).

(6) An appeal against an order passed under this Section shall lie to the Collector, whose appellate order, shall be final.

28. (1) If before the date of the commencement of this Act any land was acquired from a tenant under Section 54 of the said Act, and such land if, in the possession of the landlord who acquired it has not been utilized for the purpose for which it was acquired, the Collector shall, on the application of the tenant filed in this behalf within six months from the date of the commencement of this Act, order the restoration of the land to the tenant.

Restoration of land acquired under U. P. Act, XVII of 1939.

(2) The order for restoration passed under sub-Section (1) shall not be executed until the applicant pays to the landlord, within such time as may be allowed by the Collector, the amount that may have been received by him from the landlord as compensation for the acquisition of such land:

Provided that no payment of such amount shall be required to be made in respect of the land which, from the date of the order of its acquisition, has not been used for three years or more for the purpose for which it was acquired.

(3) An appeal against an order passed under this Section shall lie to the Commissioner, whose appellate order shall be final.

29. The United Provinces Tenancy (Amendment) Act, 1940, the United Provinces Tenancy (Second Amendment) Act, 1943, and the United Provinces Tenancy (Amendment) Act, 1946, shall be deemed to have been re-enacted.

30. The United Provinces Tenancy (Amendment) Act, 1943 is hereby repealed.

31. (1) All proceedings, suits, appeals and revisions pending under the said Act on the date of the commencement of this Act and all appeals and revisions filed after that date against orders or decrees passed under that Act and all decrees and orders passed thereunder which have not been satisfied in full, shall be decided or executed, as the case may be, and where necessary such decrees and orders shall be amended, in accordance with the provisions of the said Act as amended by this Act:

Disposal of pending suits and appeals

Provided firstly that if such a decree or order cannot be so amended, or the execution of or the appeal or revision from such an amended, decree or order cannot be proceeded with, it shall be quashed. In such a case, the aggrieved party shall, notwithstanding any law of limitation, be entitled to claim, within six months from the date on which such decree, or order is quashed, such rights and remedies as he had on the date of the institution of the suit or proceedings in which such decree or order was passed, except in so far as such rights and remedies are inconsistent with the provisions of the said Act as amended by this Act:

Provided secondly that the proceedings under Section 53 between a landlord and his tenant and all proceedings under Section 54 shall be quashed:

Provided thirdly that appeals and revisions arising out of the proceedings under Section 53 between a landholder and his tenant or out of those under Section 54 shall be so decided as to place the parties in the same position in which they were immediately before the institution of such proceedings:

Provided fourthly that all suits, appeals, and revisions pending under Section 180 of the said Act, on the date of the commencement of this Act for the ejectment of any person who was recorded as an occupant on or after the first day of January, 1938, in a record revised under Chapter IV of the United Provinces Land Revenue Act, 1901 or corrected by an officer specially appointed for the correction of annual registers in any tract, shall be dismissed and all decrees and orders for the ejectment of such persons, which have not been satisfied in full on the date of the commencement of this Act, shall be quashed:

Provided fifthly that nothing in this sub-Section shall affect the forum of appeal or revision from a decree or order passed by a civil court under the said Act.

(2) In counting the period of limitation in respect of an application for the execution of a decree or order which was passed under the said Act and the execution of which was stayed pending the enactment of this Act, the period during which the execution was so stayed shall be excluded.

APPENDIX II

Section 3 of the U. P. Tenancy (Amendment) Act XLI of 1948.

3. (1) Notwithstanding anything contained in Sections 19 and 32 of the United Provinces Tenancy (Amendment) Act, 1947, or in serial No. 19 of group B of Schedule IV of the United Provinces Tenancy Act, 1939, a suit for recovery of possession or for compensation under Section 183 of the United Provinces Tenancy Act, where the wrongful dispossession or prevention from obtaining possession took place on or after June 14, 1947, may be instituted within three months from the passing of this Act or within three years from the date of dispossession or preventing from taking possession, whichever period expires later, and no such suit instituted within the period aforesaid shall be dismissed on the ground that a two years' rule of limitation was applicable.

(2) Where a claim for recovery of possession or for compensation under Section 183 of the United Provinces Tenancy Act, 1939, has been wholly or in part dismissed or withdrawn after the thirteenth day of June, 1947, and before the passing of this Act, either in the first instance or in appeal—

firstly, on the ground that a two years' rule of limitation applied to such claim;

secondly, on the ground that the claim was not commenced within six months of June 14, 1947, where it is a claim for recovery of possession for wrongful ejectment made between the fourteenth day of June, 1944, and the first day of September, 1946;

the case may on an application in writing made within three months from the date of the passing of this Act, be restored by the Court by which it was dismissed or from which it was withdrawn, and upon such restoration it shall be disposed of in accordance with the provisions referred in and amended by Section 2 of this Act.