THE KERALA AGRARIAN RELATIONS ACT, 1960



L.F. Monastery
Nanappuram

NOTIFICATION*

No. 10870/60/Law (H) 3. *Dated, Trivandrum, 3rd February 1961.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 21st day of January 1961.

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348
ACT

The Kerala Agrarian Relations Act, 1960

(ACT 4 OF 1961)

An Act to enact a comprehensive legislation relating to agrarian reforms in the State of Kerala.

Preamble.—Whereas it is expedient to enact a comprehensive legislation relating to agrarian reforms in the State of Kerala;

Be it enacted in the Eleventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Kerala Agrarian Relations Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions.

In this Act, unless the context otherwise requires,—

(1) "agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages, in connection with the agricultural operations he performs;

(2) "agricultural year" means the year commencing with the 1st April in any year and ending with the 31st March of the year next succeeding, except in the case of puncha and kole nilams in which case it shall be the year commencing with the 15th June in any year and ending with the 14th June of the year next succeeding:

Provided that the District Collector may, with respect to any crop, area or category of land within his district, by notification in the Gazette, specify the year between such other dates as he may deem fit as an agricultural year;

(3) "ceiling area" means the area of land specified in section 58 as the ceiling area;

(4) "Cochin" means the area comprising—

(i) the portion of the State of Kerala which before the first day of July 1949 formed the State of Cochin, *less* the enclaves absorbed in the Malabar District under the Provinces and States (Absorption of Enclaves) Order, 1950; and

(ii) the enclaves which formed part of the Malabar district absorbed in the State of Travancore-Cochin under the said Order;

(5) "court" means, where a particular court is not specifically mentioned, the court having jurisdiction under the Code of Civil Procedure, 1908, to entertain a suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates;

(6) "cultivate" with its grammatical variations means cultivate either solely by one's own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers, or both, provided that such members or hired labourers have not agreed to pay or to take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it;

(7) "customery dues" means *onakazhcha, utsavakazhcha, perunnalkazhcha or aradiantharam* or the like, due annually or periodically on specific dates or at periodical intervals, or on the happening of any event or on the occasion of any festival, specified or not, but does not include rent or michavaram specified as such in the contract of tenancy;

(8) "double crop nilam" means nilam on which more than one crop of paddy is ordinarily raised in an agricultural year;

(9) "double crop nilam or its equivalent" means double crop nilam or its equivalent of any other class or classes of land computed on the basis that one acre of double crop nilam is equivalent to—

(i) one acre of cocoanut garden or arecanut garden;

(ii) one and a half acres of single crop nilam;

(iii) two acres of—

(a) pepper garden;

(b) orange orchards and graft mango orchards;

(c) paramba, other than that principally used for growing cashew-nut trees;

(d) plantation; or

(e) palliyal land; and

(iv) two and a half acres of—

(a) paramba principally used for growing cashew-nut trees; or

(b) *tharisu land;*

(10) "eviction" means the recovery of possession of land from a tenant or Kudikidappukaran;

(11) "fair rent" means the rent determined under section 16 as the fair rent in respect of a holding;

(12) "family" means husband, wife and their unmarried minor children or such of them as exist.

Explanation:—When a divorce is effected, the housband or wife, as the case may be, shall be deemed to be non-existing so far as the other party is concerned;

(13) "garden" means land used principally for growing cocoanut trees, arecanut trees or both or used principally for growing pepper vine;

(14) "gross produce" in the case of a nilam, means the normal produce of that nilam, less the cost of harvesting and in the case of a garden, paramba or *tharisu* means the normal produce of that garden, paramba or *tharisu*;

(15) "Holding" means a parcel or parcels of land held under a single transaction by a tenant from a landlord and shall include any portion of a

holding as above defined which the landlord and the tenant have agreed or are bound to treat as a separate holding.

Explanation :—Where by act of parties or by operation of law, the interest of the tenant in his holding has been severed, splitting up the holding into two or more parts, before the commencement of this Act, each such part shall be deemed to be a separate holding. But the rights of the landlord to recover proportionate rent and to exercise the right of resumption, if any, shall not be affected thereby ;

(16) the term "improvement" shall have the meaning assigned to it under the Kerala Compensation for Tenants Improvements Act, 1958 ;

(17) "intermediary" means any person who, not being a landowner or mortgagee, has an interest, in the land and is entitled by reason of such interest, to possession thereof, but has transferred such possession to any other person otherwise than by way of mortgage ;

(18) "kanam" means the transfer for consideration in money or in kind or in both, by a landlord of an interest in specific immovable property to another for the latter's enjoyment, whether described in the document evidencing the transaction as kanam or kanapattom, the incidents of which transfer include—

(a) a right in the transferee to hold the said property liable for the consideration paid by him or due to him ;

(b) the liability of the transferor to pay to the transferee interest on such consideration unless otherwise agreed to by the parties ; and

(c) payment of michavaram, or customary dues or renewal on the expiry of any specified period,

and, in, areas in the State other than Malabar, includes such transfer of interest in specific immovable property which is described in the document creating the transaction as Otti, Karipanayam, Panayam, Nerpanayam or by any other name and which has the incidents specified in items (a) and (b) above and also the following incidents:—

(i) renewal on the expiry of any specified period ; and

(ii) payment of customary dues :

Provided that kanapattom or any other demise governed by the Travancore Jenmi and Kudiyan Act of 1071 or the Kanom Tenancy Act, 1955, shall not be deemed to be a kanom.

Explanation :—For the purpose of this clause, in a case where there has been no stipulation in the document evidencing the transaction for renewal on the expiry of any specified period, but there has been a renewal or payment of renewal fees, it shall be deemed that there had been a provision for such renewal in the document ;

(19) "kanam-kuzhikanam" means and includes a transfer by a landlord to another (called the 'kanam-kuzhikanamdar') of garden lands or of other lands or of both, with the fruit bearing trees, if any, standing thereon at the time of the transfer for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, the incidents of which transfer include—

(a) a right in the transferee to hold the said lands liable for the consideration paid to him or due to him which consideration is called 'kanartham' ; and

(b) the liability of the transferor to pay to the transferee interest on the kanartham unless otherwise agreed to by the parties;

(20) "Kudikidappukaran" means a person who has no homestead or land, either as owner or as tenant in possession, to erect a homestead, and—

(i) who has been permitted with or without an obligation to pay rent by a person in lawful possession of any land to have the use and occupation of a portion of such land for the purpose of erecting a homestead, or

(ii) who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land, but otherwise has no interest in the land; and "Kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto:

Provided that a person shall not be deemed to be a Kudikidappukaran if the aforesaid permission was granted after the 11th day of April, 1957, by a mortgagee in possession or by a tenant from whom the land in which the kudikidappu is situate is liable to be resumed:

Provided further that a person shall not be deemed to be a kudikidappukaran if the aforesaid permission was granted in respect of any hut not belonging to him and situated.

(a) in a plantation; or

(b) in any area of land which is appurtenant to a mill, factory or workshop,

and in connection with the employment of such person in the plantation, mill, factory or workshop, unless he was, immediately before the commencement of this Act, entitled to the rights of a Kudikidappukaran or the holder of a protected ulkudi or Kudikidappu under any law.

Explanation I.—For the purposes of this clause "hut" means any dwelling house which has a value not exceeding four hundred rupees or the monthly rent of which does not exceed four rupees.

Explanation II.—Any person who was in occupation of a kudikidappu on the 11th day of April, 1957, and who continued to be in such occupation at the commencement of this Act shall be deemed to be in occupation of such Kudikidappu with permission as required under this clause.

Explanation III.—Where any kudikidappukaran secures any mortgage with possession over the land in which the kudikidappu is situate, his kudikidappu right shall revive on the redemption of the mortgage, provided that he has at the time of the redemption no homestead or land, either as owner or as tenant in possession, to erect a homestead;

(21) "kudiyirippu" means a holding or part of a holding consisting of the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and easements attached thereto, but does not include a kudikidappu;

(22) "kuzhikanam" means and includes a transfer by a landlord to another (called the kuzhikanamdar) of garden lands or of other lands or of both, with the

fruit-bearing trees, if any, standing thereon at the time of the transfer, for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon :

(23) "landlord" means a person under whom a tenant holds and to whom he is liable to pay rent and includes a landowner ;

(24) "landowner" means the owner of the land comprised in a holding and includes—

(i) a trustee in respect thereof ;

(ii) a landholder holding Sree Pandaravaka lands on Pattam, Otti, Jenmom, Kudijenmom, Danam or any other tenure;

(iii) a landholder holding Sreepadam lands on Sreepadam pattam or other favourable tenures ;

(iv) a kudiyan as defined in the Travancore Jenmi and Kudiyan Act of 1071 and a Kanom tenant as defined in the Kanom Tenancy Act, 1955, but does not include a Jenmi as defined in the said Acts; and

(v) a tenant holding directly under the Pattazhi Devaswom.

Explanation.—"Pattazhi Devaswom" means the Pattazhi Devi Temple in Pattazhi Village of Pathanapuram Taluk of the State of Kerala;

(25) "Land Board" means the Land Board constituted under section 74;

(26) "Land Tribunal" means the Land Tribunal constituted under section 15 ;

(27) "Licensee" means any person who is in occupation of any nilam belonging to another and who, under any local custom or usage or under an agreement, cultivates that nilam with paddy for a fixed remuneration and with the risk of cultivation, but does not include a person who so cultivates the nilam of another merely as an agent or servant.

Explanation.—Notwithstanding anything in the Indian Evidence Act, 1872, or in any other law for the time being in force a person, though he is described as an agent or servant in a document evidencing the contract for the cultivation of any nilam, may plead, adduce evidence and prove that he is a licensee ;

(28) "Malabar" means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 ;

(29) "michavaram" means whatever is agreed by a kanamdar to be paid periodically as residual rent, in money or in kind or in both to, or on behalf of, the landlord, but does not include customary dues ;

(30) "net income" means income derived from any property after deducting therefrom the cultivation expenses or maintenance charges and taxes and cesses due to the Government or any local authority ;

(31) "nilam" means land adapted for the cultivation of paddy ;

(32) "normal produce" in respect of any land means the produce which would be raised if the rainfall and the seasons were of a normal character :

Provided that the normal produce of any nilam irrigated with water for the first time after the commencement of the tenancy in respect of that nilam from an irrigation work constructed, repaired or maintained wholly at the cost of the

Government or a local authority or a co-operative society or by the tenant shall be determined as if the nilam had not been so irrigated:

Provided further that in the case of any nilam registered as double crop nilam in the registers of Government, account shall be taken as though only a single paddy crop which shall be the principal crop has been raised on the land if it had been converted from single crop into double crop nilam at the tenant's expense and as though two paddy crops have been raised on the lands if they have been so converted at the landlord's expense.

Example:—In ascertaining the normal produce in areas where the Malabar Tenancy Act, 1929, was applicable the yield of the second crop shall be deemed to be half of that of the principal crop which shall be deemed to be the first crop;

(33) "odacharthu" means an agreement for cutting bamboos in Malabar;

(34) "owner" means a person entitled to the absolute proprietorship of land and includes—

(a) a trustee in respect thereof;

(b) a kudiyan as defined in the Travancore Jenmi and Kudiyan Act of 1071 and a kanom tenant as defined in the Kanom Tenancy Act, 1955, but does not include a jenmi as defined in the said Acts;

(35) "Palliyal land" means land which is used ordinarily for raising seedlings of paddy and includes land so used and known as Pallimanayal, Myal, Potta, Njal, Njattadi or banabettu;

(36) "paramba" means dry land on which perennial cultivation exists but shall not include a garden;

(37) "pay" with its grammatical variations includes deliver;

(38) "person" shall include a company, family, association or other body of individuals whether incorporated or not, and any institution capable of holding property;

(39) "plantation" means any land used by a person principally for the cultivation of tea, coffee, rubber or cardamom or such other kind of special crops as may be specified by the Government by notification in the Gazette, and includes

(a) land used by such person for any purpose ancillary to the cultivation of such crops or for the preparation of the same for the market;

(b) land contiguous to, or in the vicinity of, or within the boundaries of, the area cultivated with such crops, not exceeding twenty per cent of the area so culivated and reserved by such person and fit for the expansion of such cultivation;

(c) agricultural lands interspersed within the boundaries of the area cultivated by such person with such crops, not exceeding such extent as may be determined by the Land Board as necessary for the protection and efficient management of such cultivation.

Explanation I.—Lands used for the construction of office buildings, godowns, factories, quarters for workmen, hospitals, schools and play grounds shall be deemed to be lands used for the purposes of sub-clause (a).

Explanation II.—If any question arises as to whether any land is in the vicinity or within the boundaries of the area cultivated for the purposes of sub clause (b), or whether it is reserved and fit for the expansion of cultivation, it shall be determined by the Land Board;

(40) "possession" in relation to land includes occupation of land by a varomdar, licensee, odacharthudar or a person claiming under an odacharthudar referred to in section 4 or kumri or punam cultivator;

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

(42) "private forests" means forests, other than those belonging to the Government, and declared as such under this Act by notification in the Gazette;

(43) (i) "punam or kumri cultivation" means fugitive or intermittent cultivation of paddy on *tharisu* lands in Malabar;

(ii) "punam or kumri cultivator" means a person who has raised crops by punam or kumri cultivation in any year between 1953 and 1959 and, where there are successive cultivators in respect of the same land, the cultivator who raised crops last by such cultivation during the said period;

(44) "purchase price" means the purchase price referred to in sub-section (7) of section 18 or in sub-section (2) of section 36 or in section 45 or in section 72;

(45) "rent" means whatever is lawfully payable in money or in kind or in both by a person permitted to have the use and occupation of any land to the person so permitting, and includes michavarom but does not include customary dues;

(46) "resumption means the recovery of possession of land from a tenant;

(47) "Sreepadam lands" means the lands owned by the Sreepadam Palace;

(48) "Sree Pandaravaka lands" means the lands owned by the Sree Padmanabhaswamy Temple;

(49) "State" means the State of Kerala;

(50) (i) "tenant" means any person who has paid or has agreed to pay rent or other consideration, for his being allowed by another, to possess and to enjoy the land of the latter, and includes—

(a) an intermediary;

(b) a verumpattamdar of any description;

(c) a kanamdar;

(d) a kanam-kuzhikanamdar;

(e) a kuzhikanamdar;

(f) a punam or kumri cultivator;

(g) a licensee in Kuttanad taluk;

(h) a varomdar;

(i) an odacharthudar or any person claiming under an odacharthudar referred to in section 4;

(j) the holder of a kudiyiruppu;

(k) a vechupakuthidar;

(l) the holder of a chalgeni lease; and

(m) a mulgenidar

but shall not include a person holding land under a transaction known as Irakkipanayam.

Explanation I.—Where in a document a person is described as a 'Sambalapattomdar', 'Sambalachittudar' or 'Coolipattomdar' in respect of any paddy land situate in Palghat district he shall be presumed to be a tenant:

Provided that such presumption shall stand rebutted if it is proved that the 'Sambalapattomdar' 'Sambalachittudar' or 'Coolipattomdar' has not undertaken any risk of cultivation.

Explanation II.—For the purpose of this sub-clause any person who on the 11th day of April 1957, was continuously in occupation of the land of another situate in Malabar, for not less than two years *bona fide* believing himself to be a tenant and continued to be in occupation of such land at the commencement of this Act shall be deemed to be a tenant.

Explanation III.—For the purpose of this sub-clause 'holder of a chalgeni lease' means a lessee or sub-lessee of specific immovable property situate in the taluk of Hosdrug or Kasargod, who has contracted, either expressly or impliedly, to hold the same under a lease whether for a specified period or not.

Explanation IV.—For the purpose of this sub-clause, any person who at the commencement of this Act continues in cultivation of any nilam by virtue of the provisions of section 6 of the Kerala Stay of Eviction Proceedings Act, 1957, shall be deemed to be a varomdar, notwithstanding the expiry of the term fixed under the varom arrangement;

(ii) "cultivating tenant" means a tenant who actually cultivates the land comprised in his holding.

Explanation.—Where a tenant cultivates only a portion of the land comprised in a holding he shall be deemed to be the cultivating tenant in respect of that portion;

(51) "tharisu" means cultivable land which is not a nilam, garden, paramba or palliyal land;

(52) "timber trees" means trees which are not fruit-bearing trees; and "fruit-bearing trees" means trees the income from which has to be taken into account for the fixation of fair rent;

(53) "to hold land" means to be in possession of land as owner or as tenant or partly as owner and partly as tenant;

(54) "varom" means an arrangement between the varomdar and the owner or other person in lawful possession of any nilam for the cultivation of paddy and sharing of the paddy produce and includes the arrangements known as pathivarom, pankuvarom, or pankupattom;

(55) "varomdar" means a person who cultivates under a varom arrangement;

(56) "vechupakuthy" means a transaction whereunder a landowner transfers the possession of land to another (called the vechupakuthidar) with the following stipulations:—

(i) the vechupakuthidar shall improve the land by planting within a specified period;

(ii) at the end of the period so specified—

13901

(a) the land shall be partitioned between the landowner and the vechupakuthidar in a specified proportion;

(b) upon such partition, all the rights of either party over the portion of the land set apart for the other shall stand transferred to and vest in the other; and

(iii) during the period between the transfer of the land and the partition thereof the vechupakuthidar shall pay to the landowner such rent as may be specified;

(57) (i) "verumpattomdar" means a lessee or sub-lessee of immovable property whether called verumpattomdar, or venpattamdar, who has expressly or impliedly contracted to hold the same under a lease with or without security for rent and includes a tharikuthukaran in Palghat district but does not include a kanamdar, kanamkuzhikanamdar, or kuzhikanamdar;

(ii) "customary verumpattamdar" means any verumpattamdar who before the commencement of the Malabar Tenancy (Amendment) Act, 1951, was entitled, by the custom of the locality in which the land was situated, to possession of the said land for a definite period of years, and for whose continuance thereon after the termination of that period, for a further period, a renewal fee had to be paid to the landlord as an incident of the tenure;

(iii) "mulgeni" means a tenancy in perpetuity at a fixed invariable rent created in favour of a person called the Mulgenidar.

CHAPTER II

PROVISIONS REGARDING TENANCIES

3. Exemptions.

Nothing in this Chapter shall apply to—

(i) leases of land or of buildings or of both belonging to or vested in the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or any other authority notified by the Government in this behalf:

Provided that leases over lands escheated to the Government shall not be deemed to be leases of land belonging to or vested in the Government, if such leases subsisted at the time of the escheat and continued to be in force at the commencement of this Act; or

(ii) leases of buildings including a house, shop or warehouse, and the site thereof, with the land if any, appurtenant thereto.

Explanation.—Permission given to a Kudikidappukaran to occupy a hut shall not be deemed to be a lease of building for the purpose of this clause; or

(iii) leases of land or of buildings or of both specifically granted for industrial or commercial purposes; or

(iv) tenancies of land or of buildings or of both granted by the Administrator-General or the Official Trustee or an Official Receiver or Officer appointed by a court under the provisions of any law or by any person holding under or deriving title from any of the officers aforesaid; or

(v) tenancies in respect of land or of buildings or of both created by mortgagees in possession or by persons deriving title from such mortgagees:

Provided that nothing in this clause shall apply to tenancies created by mortgagees in possession, in respect of lands situate in that portion of Malabar where the Malabar Tenancy Act, 1929, was not in force immediately before the commencement of this Act, if the tenants were in continuous possession of such lands for a period of five years ending with the 14th day of April 1959; or

(vi) tenancies in respect of land or of buildings or of both created by persons holding only life interest or other limited interest in the land or in the buildings or in both.

Explanation.—For the purposes of this clause a Sthanee or trustee or owner of any temple, mosque, church or other place of public religious worship or of any other public religious or charitable institution or endowment shall not be deemed to be a person having only life interest or other limited interest in ownership:

Provided that the provisions of this Chapter relating to fixity of tenure shall apply to tenancies falling under clauses (v) and (vi) so long as the mortgage, life interest or other limited interest subsists; or

(vii) leases of private forests:

Provided that nothing in clauses (i) to (vii) shall affect the rights of persons who were entitled to fixity of tenure under the Malabar Tenancy Act, 1929, or the Cochin verumpattomdars Act, VIII of 1118, or section 7 of the Hindu Succession Act, 1956: or

(viii) tenancies in respect of plantations exceeding thirty acres in extent;

Provided that the provisions of this Chapter, other than sections 41 to 55, both inclusive, shall apply to tenancies in respect of agricultural lands which are treated as plantations under sub-clause (c) of clause (39) of section 2,

(ix) lands transferred for felling trees; or

(x) any transaction relating only to the usufruct of trees.

4. Certain Odacharthudars and persons claiming under them to be tenants.

Notwithstanding anything contained in any law or in any contract, custom or usage to the contrary an Odacharthudar or a person claiming under him who was actually cultivating on the 11th day of April, 1957 and is continuing to cultivate at the commencement of this Act, the land or any portion of the land to which the Odacharthu relates shall be deemed to be a tenant in respect of the land or the portion of the land so cultivated.

5. Certain deeds of surrender of leasehold rights to be invalid.

Where on or after the 11th day of April, 1957, a tenant holding land less in extent than the ceiling area has executed a deed surrendering his leasehold right to the landlord, but has not actually transferred possession of the land to the landlord, such deed shall be deemed to be invalid and the tenant shall continue as tenant.

6. Right of tenants to fixty of tenure.

(1) Notwithstanding anything contained in any law, custom, usage or contract, or in any decree or order of court, to the contrary, every tenant shall have fixity of tenure in respect of his holding and no land from the holding shall be resumed except as provided in this Act.

(2) Nothing in sub-section (1) shall confer fixity of tenure on a tenant holding under a landlord serving in the Armed Forces if the tenancy was created by such landlord within a period of three months before he was recruited to the Armed Forces or while he was serving as a member of the Armed Forces :

Provided that no land from such tenant shall be resumed except at the end of an agricultural year or before the expiry of the period fixed in the contract of tenancy :

Provided further that such tenant shall be deemed to have fixity of tenure in respect of his holding if such landlord has not claimed resumption of the land comprised in the holding within one year from the date on which he ceases to be a serving member of the Armed Forces or within a period of one year from the commencement of this Act or within one year from the expiry of the period of tenancy, whichever period expires last :

Provided also that the provisions of this sub-section shall not apply to tenants who were entitled to fixity of tenure under the Malabar Tenancy Act, 1929, or the Cochin Verumpattomdars Act, VIII of 1118.

7. Restoration of land to certain persons who were cultivating on Varom arrangement.

Notwithstanding anything contained in any law or contract or in any decree or order of court, where a person who commenced cultivation of any nilam under a varom arrangement and who continued to cultivate it even after the expiry of the term of the varom arrangement, was evicted after the 11th day of April 1957, from the nilam in pursuance of a decree or order of court he shall, subject to the provision of section (8), be entitled to be restored to the possession of the nilam.

8. Procedure for restoration.

(1) Any person seeking restoration under section 7 shall, within a period of six months from the commencement of this Act, apply in such form as may be prescribed, to the Land Tribunal for the restoration.

(2) The Land Tribunal may, after such inquiry as may be prescribed, order the restoration of the application to the possession of the land where he is entitled to such restoration or reject the application where he is not so entitled.

(3) Any person aggrieved by an order passed by the Land Tribunal under this section may appeal against the order within such time as may be prescribed to the Court of the District Judge having jurisdiction over the area in which the holding is situate. The decision of the court on such appeal shall be final subject to the provisions of section 76.

(4) An order for restoration may be executed tnrough the court as if the order were a decree passed by it.

(5) Any person who has been restored to the possession of land under this section shall be deemed to be a tenant for the purposes of this Act.

9. Right to prove real nature of transaction.

(1) Notwithstanding anything in the Indian Evidence Act, 1872 (Central Act I of 1872), or in any other law for the time being in force, any person interested in any land situate in Malabar may plead, aduce evidence and prove

that a transaction purporting to be a mortgage, otti, karipanayam, panayam or nerpanayam of that land is not in fact such a transaction but a transaction by way of kanom, kanamkuzhikanom, kuzhikanom, verumpattom or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 6 and to the other rights of a tenant under this Act.

(2) Where under the last foregoing sub-section the court holds that the transferee is entitled to fixity of tenure in accordance with the provisions of section 6, it shall be lawful for the court to pass a decree containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instrument executed by the parties.

10. Resumption of land held by a tenant having fixity.

(1) The land comprised in a holding may be resumed on the grounds and subject to the conditions and restrictions hereinafter specified.

For extension of places of public religious worship.

(2) A trustee or owner of a place of public religious worship may resume from a tenant of such public religious institution the whole or any portion of the holding, when the same is needed for the purpose of extending the place of public religious worship and the Collector of the District certifies that the same is so needed.

For building purposes.

(3) A landlord may resume from a tenant the holding or any portion of the holding when the same is needed *bona fide* for the purpose of constructing a building for the residence of himself or of any member of his family:

Provided that—

(a) no landlord shall be entitled to resume any land so as to reduce the extent of the holding in the possession of the tenant below 20 cents; and where the resumption would reduce the extent of the holding in the possession of the tenant below one acre, the landlord shall not resume more than 20 cents; and

(b) the total extent of land that may be resumed from the holding—

(i) by one landlord shall not exceed 20 cents; and

(ii) by two or more joint or co-landlords shall not exceed 50 cents:

Provided further that no landlord shall be entitled to resume under this sub-section, any land comprised in a holding in the possession of a tenant belonging to the Scheduled Castes or Scheduled Tribes.

For self cultivation.

(4) (a) A landlord who does not own land in excess of the ceiling area requiring the holding *bona fide* for cultivation by him or by any member of his family may resume from the tenant having in his possession, or where he is a member of a family, in the possession of the members of his family, including himself, land in the aggregate exceeding the ceiling area, the whole or any portion of the holding so as not to reduce the extent of the land in the possession of the tenant or in the possession of the members of his family in the aggregate, as the case may be, below the ceiling area, nor to raise the extent of the land in the possession of the landlord above 5 acres of double crop nilam or its equivalent:

Provided that in no case shall the landlord be entitled to resume under this sub-section more than half the extent of the land in excess of the ceiling area in the possession of the tenant that would be liable to be surrendered if section 61 were to apply.

(b) A landlord, who does not own more than ten acres of double crop nilam or its equivalent, and who holds only less than five acres of such land, requiring the holding *bona fide* for cultivation by him or by any member of his family, may resume from his varomdar a portion not exceeding one-half of the area demised by him, so however as not to raise the extent of land in his possession above five acres of such land.

(5) A landlord may resume from a tenant any holding comprising agricultural land of the description specified in sub-clause (c) of clause (39) of section 2—

(a) if such holding is necessary for the purpose of the plantation; or

(b) if the tenant wilfully commits any act of material waste in the plantation:

Provided that a cultivating tenant whose holding is resumed under clause (a) or clause (b), shall be entitled to be paid a solatium by the landlord calculated in the manner specified below:—

(a) if such tenant is not entitled to be paid compensation under the Kerala Compensation for Tenants Improvements Act, 1958,—

(i) where resumption is under clause (a), an amount equal to three years' net income of the holding;

(ii) where resumption is under clause (b), an amount equal to three years' net income of the holding less the amount of loss consequent on the waste;

(b) if such tenant is entitled to be paid compensation under the Kerala Compensation for Tenants Improvements Act, 1958,—

(i) where such compensation payable is less than the solatium payable under sub-clause (i) or sub-clause (ii) of clause (a), as the case may be, the difference between such compensation and the solatium so payable;

(ii) where such compensation is equal to or more than the solatium payable under sub-clause (i) or sub-clause (ii) of clause (a), as the case may be, no solatium shall be payable but the amount of any loss consequent on the waste shall be liable to be deducted from out of the compensation payable where resumption is under clause (b):

Provided further that the right of resumption under clause (a) shall be exercisable only at the end of an agricultural year and only at the expiry of the period of the contract of tenancy.

(6) (i) Notwithstanding anything contained in sub-sections (2), (3) and (4), no kudiyirippu shall be resumed;

(ii) Notwithstanding anything contained in sub-sections (3) and (4), no land from a tenant shall be resumed under the said sub-sections by a Sthani or by his successor in interest in that holding, or by the trustee or owner of any place of public religious worship or of any other public religious or charitable institution or endowment.

(7) Resumption of land under sub-sections (2), (3) and (4) shall also be subject to the following conditions:—

(i) in respect of a tenancy subsisting at the commencement of this Act no application for resumption shall be made after a period of one year from such commencement:

Provided that where the landlord is a minor or a person subject to any mental or physical disability the right to resume land may be exercised--

(a) by the minor, within one year from the date on which he attains majority;

(b) by a person subject to mental or physical disability, within one year from the date on which the mental or physical disability ceases to exist;

(ii) the right to resume in respect of a holding shall be exercised only once;

(iii) the right of resumption shall be exercisable only at the end of an agricultural year;

(iv) a cultivating tenant whose holding is resumed shall be entitled to be paid as solatium by the landlord an amount equal to one year's rent in cases where the cultivating tenant is not entitled to compensation under the Kerala Compensation for Tenant's Improvements Act, 1958.

Explanation.—Where only a portion of the holding is resumed, the solatium payable shall be proportionately reduced.

(8) A landlord desiring to resume any land shall apply to the Land Tribunal within whose jurisdiction the land is situate for an order for resumption.

(9) In an application under sub-section (8) all persons who have interest in the land including a kudikidappukaran shall be made parties. Each such party may put forth and establish his objections to, or claims for, resumption, value of improvements, arrears of rent or any other matter in regard to the land sought to be resumed and the Land Tribunal shall adjudicate such objections and claims and pass orders settling the rights of such party and specifying the person entitled to resumption.

(10) Where the Land Tribunal finds that the resumption sought may be allowed, it may pass an order allowing resumption specifying the extent and location of the land, the rent payable in respect of the portion, if any, that would be left after resumption and such other particulars as are deemed necessary, and directing the landlord to make payments to extinguish the rights of the cultivating tenant and itermediaries if any, who would be affected by such resumption. Where any land is resumed all the rights of the cultivating tenant and such intermediaries, in respect of the land shall stand extinguished.

(11) Any person aggrieved by an order passed by the Land Tribunal under sub-section (10) may appeal against the order within such time as may be prescribed to the Court of the District Judge having jurisdiction over the area in which the holding is situate. The decision of the Court on such appeal shall be final subject to the provisions of section 76.

(12) An order for resumption may be executed through the court as if the order were a decree passed by it.

(13) Where in respect of any land there are more landlords than one, the landlords mentioned below and in the order of their priority alone shall be entitled to resumption, the landlord nearer to the cultivating tenant excluding the more remote :—

(a) Persons entitled to fixity of tenure under the Malabar Tenancy Act, 1929 or the Cochin Verumpattomdars Act, VIII of 1118 or the Devaswom Verumpattomdars (Settlement) Proclamation, XXIII of 1118 (Cochin) ;

(b) Kanomdar ;

(c) Owner.

Explanation.—Where a landlord who has preferential right for resumption does not demand resumption the landlord next in the order of priority shall be entitled to resumption.

11. Tenant's right to sue for restoration of possession of land.

(1) In any case in which any land has been resumed on the ground specified in sub-section (2) or sub-section (3) of section 10, if within three years of such resumption, the person resuming the land fails to extend the place of public religious worship or to construct the building for the extension or construction of which the land was resumed or transfers any of the lands resumed, to any person on kanam, kanam-kuzhikanam, kuzhikanam or verumpattom, or lease of any other kind, the cultivating tenant shall, subject to the provisions of section 12, be entitled to apply to the Land Tribunal for the restoration to him of the possession of the land which was resumed and to hold it with all the rights and subject to all the liabilities of a cultivating tenant.

(2) The provisions of sub-sections (9), (10), (11) and (12) of section 10 shall, as far as may, be applicable to the form and procedure in regard to the application for restoration and the right of appeal against and the manner of execution of, the orders for restoration.

12. Limitation for application for restoration under section 11.

An application for restoration under sub-section (1) of section 11 shall be made within one year from the date of the transfer by the person resuming the land if the application is based on that ground and within four years after the resumption in other cases.

13. Persons entitled to restoration.

Where restoration of any land resumed is ordered under section 11, the cultivating tenant shall hold the land directly under the landlord from whom restoration has been ordered and the rights of the intermediaries extinguished under sub-section (10) of section 10 shall not revive.

(2) Before such restoration the cultivating tenant shall pay to the person who resumed the land—

(i) the amounts paid by such person to the cultivating tenant and to the intermediary, if any, towards the value of the improvements effected by them and existing at the time of restoration ;

(ii) the value of the improvements, if any, effected *bona fide* by such persons between the date of resumption and the date of the application ; and

(iii) any amount other than solatium received by the cultivating tenant from such person on account of the resumption.

(3) The rent payable by the cultivating tenant after the restoration of the holding shall be the fair rent.

14. Rates of normal rent.

(1) The rates of normal rent in respect of any class of land specified in column (2) of Schedule 1 shall not exceed the maximum nor shall it be less than the minimum specified against it in columns (3) and (4) thereof respectively.

(2) Subject to the provisions of sub-section (4), the Government may, by notification in the Gazette, fix the rates of normal rent applicable to lands in any local area subject to the maxima and the minima specified in Schedule 1. In fixing such rates the Government shall take into account the local conditions regarding tenure, the law prevailing in that area immediately before the commencement of this Act and any other special considerations.

(3) Any rate fixed by the Government under sub-section (2) may be varied by them by like notification subject to the provisions of sub-section (4) and subject to the maxima and minima specified in Schedule 1.

(4) A draft of the notification proposed to be issued under sub-section (2) or sub-section (3) shall be laid before the Legislative Assembly for a period of ten days and the Legislative Assembly may approve the draft with or without modification or disapprove the draft during the period in which it is so laid. On the approval of the draft by the Legislative Assembly the Government shall publish the notification, as approved, in the Gazette. If the Legislative Assembly does not—

(i) approve with or without modification; or

(ii) disapprove

the said draft during the period aforesaid, it shall be lawful for the Government to publish the notification in the Gazette in terms of the draft.

15. Constitution of Land Tribunal.

The Government may, by notification in the Gazette, constitute for any area specified therein a Land Tribunal consisting of a sole member who shall be a Judicial Officer not below the rank of a Munsiff or a Revenue Officer not below the rank of a Tahsildar, for the purpose of performing the functions of a Land Tribunal under this Act.

16. Determination by the Land Tribunal of rent payable.

(1) Any cultivating tenant may apply to the Land Tribunal for determining the fair rent in respect of the holding, the instalments, if any, in which it shall be payable and the date or dates on which such rent or the instalments thereof shall be payable. The fair rent shall be the rent calculated at the rates applicable to the holding fixed by the Government under section 14 or the rent payable, immediately before the commencement of this Act, whichever is less:

Provided that in the case of land used principally for the cultivation of tea, coffee, rubber or cardamom or such other kind of special crops as may be specified by Government by notification in the Gazette, or used for any purpose

ancillary to the cultivation of such crops or for the preparation of the same for the market, the contract rent shall be deemed to be the fair rent.

Explanation.—Where in respect of a holding, the fair rent fixed under the Malabar Tenancy Act, 1929, is higher than the rent which was payable under the contract of tenancy, the rent payable immediately before the commencement of this Act shall, for the purposes of this sub-section, be deemed to be the rent which was payable under the contract of tenancy.

(2) Where the rent payable under the contract of tenancy is fixed in money, such rent shall, for the purpose of determining the fair rent, be computed in commodity at the average of the prices of such commodity for a period of six years immediately preceding the date of the application under sub-section (1).

(3) Where it is necessary to ascertain the value of any commodity for the purpose of determining the fair rent, the value of such commodity shall, unless it has been specified in the document evidencing the contract of tenancy, be deemed to be the average of the prices of such commodity for a period of six years immediately preceding the date of the application under sub-section (1).

(4) On receipt of an application under sub-section (1) the Land Tribunal shall issue notices to all the parties concerned and after enquiry, determine by an order—

(i) the fair rent in respect of the holding;

(ii) if there is an intermediary or intermediaries, the rent payable to his ladlord or to their respective landlords by such intermediary or intermediaries;

(iii) the instalments, if any, in which the rent shall be payable; and

(iv) the date or dates on which the said rent or instalment shall be payable.

(5) Any person aggrieved by an order passed by the Land Tribunal under sub-section (4) may appeal against the order within such time as may be prescribed to the Court of the District Judge having jurisdiction over the area in which the holding is situate. The decision of the Court on such appeal shall be final subject to the provisions of section 76.

(6) The fair rent determined under sub-section (4) or sub-section (5), as the case may be, shall not be liable to alteration or revision except upon the application of the cultivating tenant for the reduction of the fair rent on any of the grounds specified in section 24:

Provided that where the rates of normal rent are varied by the Government by notification under sub-section (3) of section 14 it shall be lawful for the landlord or the cultivating tenant to apply for the revision of fair rent on the basis of the new rates.

17. Rent payable when Land Tribunal has not determined rent.

Where in a case the rent payable in respect of a holding has not been determined by the Land Tribunal, the landlord shall be entitled to receive and the tenant shall be bound to pay the rent that was payable immediately before the commencement of this Act:

Provided that where the fair rent has been determined in respect of a holding, the order determining the fair rent shall take effect from the date on which the tenant filed the application for such determination and any amount in

excess of such fair rent, paid by the tenant to the landlord till the date of determination of the fair rent shall be adjusted towards the payment of future fair rent or purchase price.

Explanation.—Where in respect of a holding, the fair rent fixed under the Malabar Tenancy Act, 1929, is higher than the rent which was payable under the contract of tenancy, the rent payable immediately before the commencement of this Act shall, for the purposes of this section, be deemed to be the rent which was payable under the contract of tenancy.

18. Special Provisions regarding small holders.

(1) For the purposes of this section 'small holder' means a person who does not fall within either of the following categories, namely:

(i) persons having more than ten acres of double crop nilam or its equivalent as landowner or intermediary, or partly as land-owner and partly as intermediary, or having an extent of land in one or both of the above capacities which, together with the extent of land in his possession as owner, or as tenant of land not subject to resumption under section 10, will exceed ten acres of double crop nilam or its equivalent;

(ii) persons having in possession more than five acres of double crop nilam or its equivalent as owner, or as tenant of land not subject to resumption under section 10, or partly as owner and partly as such tenant:

Provided that where a person had, in any one or more of the capacities mentioned in clause (i), land in the aggregate exceeding ten acres of double corp nilam or its equivalent, or in one or both of the capacities mentioned in clause (ii), land in possession in the aggregate exceeding five acres of double crop nilam or its equivalent, immediately before the 18th day of December, 1957, but on or subsequent to that date the extent of such land was reduced by partition or transfer to the extent aforesaid or less, he shall not be deemed to be a small holder; nor shall such partition or transfer entitle the allottee or the transferee to exercise the rights conferred under this section in respect of the land covered by the partition or transfer.

(2) Where in respect of any land the cultivating tenant was entitled to fixity of tenure, immediately before the commencement of this Act under any law, custom or contract or under any decree or order of court—

(a) such tenant holding under a small holder may, at his option,—

(i) elect to continue as tenant in respect of the entire holding; or

(ii) elect to purchase the entire land comprised in the holding;

(b) where both the small holder and the tenant agree, the tenant shall be entitled to surrender one half of the holding to the small holder and retain the other half.

Explanation.—For the purposes of this sub-section a cultivating tenant shall be deemed to have fixity of tenure in respect of his holding if he has either paid renewal fees or taken a renewal or is entitled to obtain a renewal with respect to that holding, even though under any other law he is not entitled to it.

(3) (a) Where a tenant elects to continue as tenant in respect of the entire holding under clause (a) (i) of sub-section (2), he shall pay to the small holder as

rent for the land comprised in the holding 75 per cent of the contract rent or where fair rent has been fixed in respect of the holding under any law in force immediately before the commencement of this Act, such fair rent.

(b) Where a tenant elects to purchase the entire land comprised in the holding under clause (a) (ii) of sub-section (2), he shall pay to the Land Tribunal in a lump in such manner as may be prescribed, a sum equal to 12 times the contract rent or where fair rent has been fixed under any law in force immediately before the commencement of this Act, 12 times such fair rent.

Explanation.—For the purposes of this sub-section where in respect of a holding, the fair rent fixed under any law in force immediately before the commencement of this Act is higher than the rent which was payable under the contract of tenancy the contract rent shall be deemed to be the fair rent fixed under any such law.

(c) Where a tenant surrenders one-half of the holding and retains the other half under clause (b) of sub-section (2)—

(i) for the improvements, if any, belonging to the small holder and the other landlords or their predecessors in interest, if any, in the land retained by the tenant the small holder shall be entitled to receive from the tenant such amount as compensation as he would have been entitled to under the Kerala Compensation for Tenants Improvements Act, 1958, if he were a tenant evicted from such land and if those improvements belonged to him;

(ii) for the improvements, if any, belonging to the tenant on the land surrendered to the small holder the tenant shall be entitled to get from the small holder such amount as compensation as he would have been entitled to under the Kerala Compensation for Tenants Improvements Act, 1958, if he were evicted from such land;

(iii) the right, title and interest of the small holder and the other landlords, if any, over the land retained by the tenant shall, in consideration of the surrender of the rights of the tenant over the other half to the small holder, vest in the tenant free from all encumbrances created by the small holder and the other landlords, if any; and

(iv) the small holder shall pay to the other landlords, if any, compensation for the extinguishment of their right, title and interest over the land retained by the tenant. Such compensation shall be an amount equal to 12 times one-half of the rent payable by the small holder in respect of the entire holding.

(4) In the case of a holding held under a small holder by a tenant not falling under sub-section (2) the small holder may at his option,—

(a) require the tenant holding under him to surrender one-half of the holding, in which case the tenant may at his option either continue as tenant in respect of the remaining portion or purchase that portion; or

(b) permit the tenant holding under him to continue as tenant in respect of the entire land comprised in the holding:

Provided that a small holder shall be entitled to require his tenant to surrender only an extent of land which, together with the land already in the

possession of the small holder, would not in the aggregate exceed five acres of double crop nilam or its equivalent.

(5) (a) Where one-half or any portion of the holding is surrendered to the small holder under clause (a) of sub-section (4), the tenant shall be entitled to receive from the small holder such amount as compensation for the improvements belonging to him as he would have been entitled to under the Kerala Compensation for Tenants Improvements Act, 1958, if he were evicted from such land.

(b) Where a tenant opts to continue as tenant in respect of the remaining portion under clause (a) of sub-section (4), he shall be liable to pay to the small holder 75 per cent of the proportionate contract rent of such remaining portion or where fair rent has been fixed in respect of the holding under any law in force immediately before the commencement of this Act, such proportionate fair rent in respect of the remaining portion of the holding; and where the tenant opts to purchase that portion under the said clause, he shall be liable to pay to the Land Tribunal, in such manner as may be prescribed, 12 times such proportionate contract rent or fair rent, as the case may be, as purchase price.

(c) Where a tenant is permitted to continue as tenant in respect of the entire land comprised in the holding under clause (b) of sub-section (4) he shall pay to the small holder rent calculated at 75 per cent of the contract rent or where fair rent has been fixed under any law in force immediately before the commencement of this Act, such fair rent.

Explanation I.—For the purpose of this sub-section, in determining the rent payable by a varomdar the provisions of clause (ii) of the Explanation to sub-section (1) of section 45 shall apply.

Explanation II.—For the purposes of this sub-section where in respect of a holding, the fair rent fixed under any law in force immediately before the commencement of this Act is higher than the rent which was payable under the contract of tenancy the contract rent shall be deemed to be the fair rent fixed under any such law.

(6) Nothing in this section shall be deemed to take away from the small holder or restrict any of the rights or benefits under any other provisions of this Act to which he would be entitled if he were not a small holder.

(7) The purchase price payable under clause (b) of sub-section (5) by a tenant shall be paid in 12 equal annual instalments as determined by the Land Tribunal with interest on each such instalment at the rate of $4\frac{1}{2}$ per cent per annum from the date of purchase to the respective dates of payment.

(8) Within such time as may be prescribed, the tenant holding under a small holder or the small holder, as the case may be, may stating the option, if any, exercised by him, apply in such form as may be prescribed, to the Land Tribunal to grant the relief he is entitled to. In such an application all persons who have any interest in the land including a kudikidappukaran shall be made parties. Each such party may put forth and establish his objections and claims for value of improvements, compensation, purchase price, encumbrance, maintenance or alimony, arrears of rent, the rent payable or any other claim in regard to the land concerned and the Land Tribunal shall adjudicate such claims and pass orders settling the rights of each such party. In passing orders regarding

claims of intermediaries or claims for encumbrance, maintenance or alimony, the Land Tribunal shall have regard to the provisions of sections 49, 50 and 54. An order passed by the Land Tribunal under this sub-section may be executed through the court as if the order were a decree passed by it.

(9) (a) The purchase price shall be a first charge on the land, subject to the charges for any dues payable to the Government and to any local authority and the instalments due shall be recoverable as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

(b) On the payment of the purchase price in lump under sub-section (3)(b) or on the payment of the first instalment of the same under sub-section (5)(b), the Land Board, on intimation of the same from the Land Tribunal, shall issue a certificate of purchase in the prescribed form to the tenant in respect of the land purchased and thereupon the land shall vest in the tenant free from all encumbrances. Such certificate shall be conclusive evidence of the purchase.

(c) Where a tenant has become the purchaser of any land under the provisions of this section, the rights of the small holder and other landlords, if any, in the land shall be extinguished for which they shall be entitled to compensation which shall be equivalent to the purchase price payable by the tenant. The compensation shall be apportioned among the small holder and the other landlords in proportion to the profits derived by each from the land.

The compensation shall be paid by the Land Board to them in cash where the purchase price is paid in lump, and where the purchase price is payable in instalments, the compensation shall be paid either in cash or in negotiable bonds redeemable in 10 years and carrying interest at the rate of 4½ per cent per annum with effect from the date of purchase.

Explanation :—For the purpose of this clause "profits derived from the land" shall mean, in the case of the landowner, the rent to which he is entitled and in the case of any other landlord, the difference between the rent due to him from his tenant and the rent for which he is liable to his landlord.

(d) Pending the determination of the purchase price under sub-section (3) or sub-section (5) or where there has been an appeal against the determination of the purchase price, pending orders on such appeal, the tenant shall deposit with the Land Tribunal an amount equal to the rent which would have been payable by him on the dates on which such rent would have become due if the land were not purchased. The Land Tribunal shall after intimating the Land Board pay such amount to the small holder and other landlords, if any, as part payment of the compensation on taking proper security in case it is found that they are entitled to such amount. The amount so paid by the tenant shall be deducted from the purchase price payable by him and he shall be liable to pay only the balance.

(10) Any person aggrieved by any order of the Land Tribunal under this section may appeal against such order within such time as may be prescribed to the court of the District Judge having jurisdiction over the area in which the land is situate. The decision of the court on such appeal shall be final subject to the provisions of section 76.

(11) Where there has been any modification in appeal from the orders of the Land Tribunal, such orders shall be modified accordingly.

(12) Where any land has been surrendered to the small holder who is an intermediary, under clause (b) of sub-section (2) or clause (a) of sub-section (4) the right, title and interest of the landowner and the intermediary, if any, between the landowner and the small holder in the said land shall vest in the Government with effect from the date of the surrender and the small holder shall be entitled to get such right, title and interest assigned to him. The provisions of sections 43 to 55 (both inclusive) shall, as far as may be, apply to the vesting and assignment of such right, title and interest.

(13) The rights conferred by this section on small holders shall be exercisable only by the following catagories of landlords :—

(i) the kanamdar,
(ii) the kanamkuzhikanomdar,
(iii) the customary verumpattamdar, and
(iv) the landowner.

Where in respect of any land there are more landlords than one belonging to the categories mentioned above, such rights shall be exercisable in the order of priority, the landlord nearer to the cultivating tenant excluding the more remote. The rights conferred by this section shall be exercised only once in respect of a holding.

19. Mode of payment of rent.

(1) Where the rent is payable in kind it shall be paid either in kind or in money at the option of the tenant and the tenant shall be entitled to a receipt in writing signed by the landlord receiving the rent, showing the amount of the rent in kind or money received, and the year for which it is credited together with the details of the land for which it is paid.

(2) The money value of the rent payable in kind, unless it is specified in the document evidencing the contract of tenancy, shall be computed with reference to the rates published in the Gazette under section 26 for the date on which the rent is payable and if no such rate is published for that date, at the rate for the nearest previous date for which a rate is so published :

Provided that where in respect of any commodity the price has not been published in the Gazette the money value of such commodity shall be calculated at the market rate prevailing on the date on which the rent is due.

20. Rent payable by intermediaries.

Where in respect of a holding there are intermediaries at the commencement of this Act the rent payable by an intermediary to his immediate landlord shall be reduced in proportion to the reduction, in the rent payable to him by the tenant immediately under him, on account of the determination of the rent payable under section 16.

Illustration.

A, the landowner, has given a lease of nilam for 120 paras of paddy to B. B has sub-leased it to C for 150 paras of paddy and C has further sub-leased to D for 180 paras of paddy, the sub-leases having been created before the commencement of this Act. The fair rent of the holding is fixed as 90 paras of paddy. D has to pay C 90 paras, C will have to pay 75 paras, and B will have to pay 60 paras.

21. Apportionment of rent on severance of interest of landlord or tenant.

Where by act of parties or operation of law the interest of the landlord or of the tenant in the land demised has been severed, a suit may be instituted by the landlord or the tenant for the apportionment of rent and the security for rent, if any. The court shall pass a decree apportioning these amounts and directing the execution of a lease deed on the basis of such apportionment within a specified period and make such order as to the costs of the suit as it may deem fit. If within the time fixed by the court such deed is not executed, the court shall, on an application by the person in whose favour such deed is to be executed and on the deposit by such person of such amount as the court may direct, execute the deed on behalf of the person in default and the deed so executed shall be deemed to be a deed executed by the person in default and the court shall by order direct that the cost of execution of the deed may be realised by the applicant from the person in default. The order of the court shall be enforceable as if it were a decree passed by that court under the Code of Civil Procedure, 1908.

22. Liability for assessment.

(1) As between the tenant and the landowner the former shall be liable for any cess or special charges leviable by the Government for special or additional crops raised.

(2) A tenant making any payment towards basic tax or any tax payable to the Government or to any local authority shall be entitled to deduct the same from the rent payable by him to his landlord unless under the contract of tenancy or under any law for the time being in force the tenant is liable to make such payment:

Provided that no such reduction shall be made if the rent payable by the tenant to the landlord is less than the basic tax.

23. Remission of rent.

(1) Where there has been a damage to, or a failure of, crops owing to causes beyond the control of the tenant in any holding, the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure.

(2) The District Collector shall, on an application to him by the tenant, determine the extent of damage to, or failure of, crops under sub-section (1) and order such remission of rent as appears to him just and proper. The decision of the Collector shall be final and the tenant shall be entitled to get the benefit of the remission so ordered.

24. Abatement in rent in case of acquisition of land, etc.

(1) A tenant shall, when a portion of the land comprised in the holding is acquired under any law for the time being in force for the compulsory acquisition of land for public purposes, be entitled to an abatement in the rent in the same proportion as the yield from the portion acquired bears to the yield from the entire holding.

(2) Where any material part of the holding is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, by fire, tempest or flood or violence of any army or mob or other irresistible force, the rent payable shall be proportionately reduced.

(3) Where in any instance under sub-section (2) the holding has been rendered permanently unfit for the purpose for which it was let, the tenant shall be entitled thereupon to surrender the holding to the landlord.

25. Invalidity of claims of dues other than rent payable.

(1) Notwithstanding any contract to the contrary, express or implied, no tenant shall be liable to pay to his landlord as rent any customary dues or renewal fees or anything more or anything else than the rent payable under section 16 or section 17 or section 18, as the case may be, and interest if any, thereon.

(2) Arrears of rent shall carry interest at the rate of six per cent per annum or at the contract rate whichever is less.

26. Publication of prices of commodities.

The Government shall cause to be published every month in the Gazette and at the Taluk Headquarters lists of prices prevailing in each taluk of commodities, the commutation rates of which are necessary for the purposes of this Act.

27. Summary jurisdiction of Munsiffs.

(1) Munsiffs may summarily try and dispose of suits by landlords for recovery of arrears of rent when the amount or value of the suit does not exceed two hundred rupees.

(2) In such suits, the court shall, except as hereinafter provided, follow the procedure prescribed for the trial of small cause suits, and the court may decide any question of title to immovable property or status which may be necessary for the determination of the suits, but such decision shall not be *res judicata* in any proceeding other than a suit under this section.

(3) Notwithstanding anything contained in the Court Fees Act for the time being in force, the court-fee payable on the plaint in such suits shall be the same as on an application when the arrears to be recovered have accrued due within 12 months of the date of the institution of the suit.

28. Decision non-appealable.

The decision passed in a suit under section 27 shall not be appealable.

29. Application to court when landlord refuses to accept a tender.

If the landlord refuses to accept a tender of the rent or if the tenant is doubtful as to the person entitled to receive the same and no suit has been brought against the tenant for recovery of the said dues, the tenant may apply to the court for permission to pay the same through the court.

Along with the said application, the tenant shall deposit in court the said dues together with interest, if any, accrued thereon.

30. Procedure on application under section 29.

When an application and deposit have been made under section 29 the court shall cause written notice thereof to be given at the cost of the applicant to every person who, in the opinion of the court, is entitled to be heard thereon and after hearing such of them as appear, order the payment of the amount to the person entitled or bound to receive it and make directions regarding any interest, costs and such other matters as the court may deem fit.

Nothing in this section shall affect the right of any person to recover the said amount by suit from the person to whom it is paid, but the order allowing the application shall be deemed a full acquittance to the tenant in respect of the amount recovered by it.

31. Priority of claim for arrears of rent.

Arrears of rent due to the landlord, together with interest thereon shall be a charge on the interest of the tenant in the holding and shall, subject to the priority of the rights of the Government and any local authority for arrears of tax, cess or other dues, be a first charge on such interest of the tenant.

32. Notice to landlord and intermediary when the interest in the holding of the tenant is acquired.

(1) Any person deriving an interest in the holding of a tenant by virtue of a title acquired by act of parties or by operation of law shall, where such interest is acquired after the commencement of this Act, within a month from the date of such acquisition, give registered notice of his interest in the holding to the landlord and the intermediaries, if any. The said notice shall contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest.

(2) Where default is made by a tenant in the payment of rent, his landlord shall give registered notice of the default to the persons who have acquired interest in the holding prior to the date of such default and who have notified the existence of their interest under sub-section (1). The persons having interest in the holding shall be entitled to pay the arrears and the landlord shall be bound to receive such payment:

Provided that a person who has acquired interest only in a portion of the holding, shall be bound to pay only so much of the rent or arrears of the same, as will on apportionment fall on such portion of the holding. In the absence of agreement such apportionment shall be made by the court on application made to it by such person within one month from the date of service of the notice of default.

(3) All applications for apportionment under the proviso to sub-section (2) shall, notwithstanding anything contained in the Kerala Civil Courts Act, 1957, be made to the court of the Munsiff within whose jurisdiction the holding is situate.

The order of apportionment shall have the force of a decree and be appealable as such.

33. Right of tenant to be heritable and alienable.

Subject to the provisions of this Act, all rights which a tenant has in his holding, shall be heritable and alienable.

34. Discharge of arrears of rent.

(1) All arrears of rent outstanding on 11th April 1957 from a tenant belonging to any of the classes specified in column (1) below to his landlord, whether the same be payable under a decree or order of court or under any law or contract shall be deemed to be fully discharged if payment of the amount specified against it in column (2) is made within one year of the commencement of this Act.

Class of tenant	*Amount payable for the discharge of entire arrears*
(1)	(2)
I. Tenant holding less than 5 acres of double crop nilam or its equivalent in the aggregate.	One year's rent or the actual amount in arrears whichever is less.
II. Tenant holding 5 acres and more but less than 15 acres of double crop nilam or its equivalent in the aggregate.	Two years' rent or the actual amount in arrears whichever is less.
III. Tenant holding 15 acres of double crop nilam or its equivalent or more in the aggregate.	Three years' rent or the actual amount in arrears whichever is less :

Provided that where an intermediary has collected rent in excess of the amount payable under this sub-section, for any period prior to 11th April 1957 and has not paid the same to his landlord, he shall be liable to pay such excess also to his landlord.

Illustration.

A has leased 3 acres of land to B on an annual rent of Rs. 100 and B has sub-leased it to C on an annual rent of Rs. 150. B has collected from C all the rent up to and inclusive of 11th April 1957 but has kept rent in arrears to A for 3 years. B must pay to A Rs. 300, that is, arrears of all the three years and not Rs. 100, the rent for one year :

Provided further that no intermediary shall be liable to pay his landlord anything in excess of what he is entitled to receive.

Illustration.

A has leased 9 acres of land to B who has sub-leased it equally to three tenants, falling under class I above. B's tenants are in arrears for three years and B also is a defaulter in payment to A for the corresponding period of three years. B is entitled to collect from his tenants arrears for one year only and hence the liability of B to A is in respect of arrears for one year and not two years :

Provided further that the provisions of this sub-section shall not apply to the arrears of rent due to a small holder within the meaning of section 18 by a tenant having in his possession land in excess of 15 acres of double crop nilam or its equivalent.

(2) Any rent paid by a tenant after the 11th April 1957 shall be deemed to be payments towards the rent accrued due after that date and the balance, if any, shall be credited towards arrears accrued due before the said date.

(3) Where before the commencement of this Act, any court has ordered eviction of a tenant on the ground that he has not paid arrears of rent but the tenant has not been actually evicted, the decree for eviction shall be annulled on the tenant depositing the rent due as provided in sub-section (1).

(4) In computing the period of limitation for the institution of suits or proceedings for recovery of arrears of rent, the time during which such institution was prohibited by section 4 of the Kerala Stay of Eviction Proceedings Act, 1957

and the period of one year allowed under sub-section (1) of this section for the payment of arrears of rent shall be excluded.

35. Rights as to timber trees.

(1) Notwithstanding any law, custom or contract to the contrary, all timber trees planted by the cultivating tenant or spontaneously sprouting and growing in his holding after the commencement of his tenancy shall belong to the cultivating tenant.

(2) Subject to the provisions of sub-sections (3), (4) and (5) in the case of timber trees standing in the holding of a cultivating tenant at the commencement of his tenancy, the cultivating tenant and if he does not require, the landowner or the intermediary, as the case may be, shall have the right to cut and remove such trees provided that the right conferred by this sub-section shall be exercisable by the intermediary only in case such timber trees were either planted by him or had spontaneously sprouted and grown during the period in which he was in possession of the holding.

(3) Where the cultivating tenant exercises his right under sub-section (2) he shall be liable to pay to the landowner or the intermediary, as the case may be, one-half of the market value of the timber trees so cut and removed.

(4) Where the landowner or the intermediary exercises his right under sub-section (2) he shall be liable to pay to the cultivating tenant one-half of the market value of the timber trees so cut and removed.

(5) The right conferred by sub-section (2) shall not be exercisable unless reasonable notice thereof in writing is given to the party to be affected by the exercise of the said right.

36. Right of tenant of kudiyiruppu to purchase the rights of landlord.

(1) Every tenant of a Kudiyiruppu shall be entitled to purchase the rights of the landlord in the Kudiyiruppu, free of all encumbrances on payment of twelve times 75 per cent of the annual rent payable by him in twelve equal annual instalments together with interest at 4½ per cent per annum on the amount outstanding at the time of the payment of each instalment.

(2) The tenant of a Kudiyiruppu may apply to the Land Tribunal for the purchase of the rights of the landlord in the Kudiyiruppu making all persons interested as parties to such application. The Land Tribunal shall on receipt of the application and after giving an opportunity to all persons interested to be heard, determine the purchase price, fix the dates for payment of the same and its apportionment among the interested parties.

(3) On deposit of the first instalment of the purchase price the Land Tribunal shall intimate the fact to the Land Board and the Land Board shall thereupon issue a certificate of purchase in the prescribed form to the tenant which shall be conclusive proof of the vesting of the ownership in the tenant. The Land Tribunal shall also order payment of the deposit money to the parties entitled to it. The balance of the purchase price shall be a first charge on the land subject to any charge for the dues to the Government and to any local authority and shall be recoverable as arrears of land revenue and upon such recovery it shall be paid to the parties entitled to it.

(4) The cost of the proceedings shall be in the discretion of the Land Tribunal.

(5) Any person aggrieved by an order passed by the Land Tribunal under this section may appeal against that order within such time as may be prescribed to the court of the District Judge having jurisdiction over the area in which the kudiyiruppu is situate. The decision of the court on such appeal shall be final subject to the provisions of section 76.

37. Kudikidappukaran to have fixity.

(1) No kudikidappukaran shall be evicted from his kudikidappu except on the following grounds, namely :—

(i) that he has alienated his right of kudikidappu to another person ;

(ii) that he has rented or leased out his kudikidappu to another person ;

(iii) that he has ceased to reside in the kudikidappu continuously for a period of two years ; or

(iv) that he has another kudikidappu or has obtained ownership and possession of land within one mile of his existing kudikidappu on which a homestead or hut could be erected.

Explanation.—For the purpose of this sub-section a Kudikidappukaran shall not be deemed to have ceased to reside in the Kudikidappu if a near relative of his, who was residing with him in the Kudikidappu for a continuous period of not less than one year, continues to reside in the Kudikidappu after the Kudikidappukaran has ceased to reside therein, in which case, such near relative shall be liable to pay the rent, if any, payable by the Kudikidappukaran. "Near relative" for the purpose of this explanation means, husband or wife, children, grand-children, father, mother, brother or sister.

(2) Notwithstanding anything contained in sub-section (1), the person in possession of the land on which there is a homestead or hut in the occupation of a Kudikidappukaran may, if he *bona fide* requires the land—

(i) for building purposes for himself or any member of his family including major sons and daughters ; or

(ii) for purposes in connection with a town planning scheme ; or

(iii) for any industrial purpose,

demand the Kudikidappukaran, on payment of the price of the homestead, if any, erected by the Kudikidappukaran, to shift to a new site fit for erecting a homestead within one mile of the existing Kudikidappu, the possession and ownership of which shall be transferred by such person to the Kudikidappukaran and the Kudikidappukaran shall be bound to accept such arrangement. The extent of the site so transferred shall not be less than,—

(a) if within the limits of the Corporation of Trivandrum or of any major municipality, 5 cents ; and

(b) if in any other area, 10 cents.

The Kudikidappukaran shall be entitled to receive before he so shifts, from the person providing the alternate site, the expenses reasonably required to shift to the new site.

(3) Notwithstanding anything contained in sub-sections (1) and (2) where a person does not hold more than 25 cents of land within the limits of the Corporation of Trivandrum or of any Municipality constituted under any law for the time being in force relating to the constitution of Municipalities, and there is a homestead or hut in the occupation of a Kudikidappukaran on such land, he may, if he requires the land occupied by such homestead or hut, for constructing a building for his own residence, apply to the Government for the acquisition of land to which the Kudikidappu may be shifted. In such application he shall offer to deposit, whenever called for, the cost of acquisition of 5 cents of land, if the Kudikidappu is located within the limits of the Corporation of Trivandrum or of any major Municipality and of 10 cents of land in other cases. If there are not less than 20 such applications in respect of Kudikidappus situated within the limits of the Corporation of Trivandrum or a Municipality, an officer authorised by the Government in this behalf may, after collecting the cost of acquisition from the applicants, acquire lands within such limits under the Land Acquisition Act for the time being in force, allot such lands to the Kudikidappukars and require them to shift to the lands so allotted. The Kudikidappukars shall thereupon be bound to shift to the new sites. A kudikidappukaran shall be entitled before he so shifts to receive from the person in possession of the land on which his homestead or hut was originally located, the expenses as determined by such officer to be reasonably required to shift to the new site.

Explanation:—For the purpose of this section "major Municipality" shall mean the Municipalities of Cannanore, Calicut, Trichur, Mattanchery, Fort Cochin, Ernakulam, Alleppey, Quilon and Kottayam.

38. Rent payable by Kudikidappukaran.

All arrears of rent, if any, payable by a Kudikidappukaran on the date of the commencement of this Act whether the same be payable under any law, custom, or contract or under a decree or order of court shall be deemed to be discharged, if he pays one year's rent or the actual amount in arrears whichever is less. On and after the commencement of this Act, notwithstanding any contract, decree or order of court a Kudikidappukaran shall not be required to pay more than six rupees yearly as rent in respect of his kudikidappu which is not situated within the limits of the Corporation of Trivandrum or of any Municipality constituted under any law for the time being in force relating to the constitution of Municipalities :

Provided that a Kudikidappukaran who was not liable to pay any rent in respect of his kudikidappu immediately before the commencement of this Act shall not be liable to pay any rent; nor shall a Kudikidappukaran be liable to pay any rent in excess of that which he was paying before the commencement of this Act.

39. Filing of suit against Kudikidappukaran in certain cases.

If the Kudikidappukaran does not comply with the demand made by the person in possession of the land under sub-section (2) of section 37 to shift to a new site, the person in possession of the land may institute a suit against him for the purpose. The court, on being satisfied that the person in possession has complied with all the conditions mentioned in sub-section (2) of section 37, may pass a decree for shifting the Kudikidappu :

Provided that no such suit shall be instituted without giving the Kudikidappukaran one month's notice by registered post.

40. Right of Kudikidappukaran to be heritable but not alienable.

(1) The rights of a Kudikidappukaran in his Kudikidappu shall be heritable but not alienable :

Provided that where a near relative, not being a legal heir of the Kudikidappukaran, was residing with him continuously for a period of not less than one year immediately before his death and no legal heir was residing with him, the rights of the Kudikidappukaran shall devolve on such near relative to the exclusion of his legal heirs.

Explanation.—For the purpose of this sub-section "near relative" means and includes father, mother, sister, brother and sons and daughters of such brother or sister.

(2) The Kudikidappukaran shall have the right to maintain, repair and rebuild the homestead erected by him, without exceeding the dimensions of the original homestead, at his own cost.

VESTING IN GOVERNMENT OF LANDLORD'S RIGHTS IN LANDS HELD BY TENANTS AND ASSIGNMENT OF SUCH RIGHTS TO TENANTS

41. Vesting in Government of landlords' rights in lands held by protected tenants.—

(1) For the purposes of this section the expression "protected tenant" with reference to a holding means a cultivating tenant other than the tenant of a kudiyirippu, from whom no part of the holding is liable to be resumed.

(2) On the appointed day to be notified by the Government in the Gazette, all rights, title and interests of the landowner and the intermediary, if any, over lands held by protected tenants shall vest in the Government free from all encumbrances created by the landowner and the intermediary, subsisting thereon on the said day.

42. Vesting in Government of landlords' rights in lands held by other tenants.—

(1) Where—

(i) no application has been made for resumption of a holding under section 10 ; or

(ii) any such application made has been rejected ; or

(iii) resumption of only a part of the holding has been allowed,

all rights, title and interests of the landowner and the intermediary, if any, over the holding or over the land left after resumption, as the case may be, shall vest in the Government free from all encumbrances created by the landowner and the intermediary, subsisting thereon with effect from the date of expiry of the period for filing the application for resumption or the date on which the final order of rejection of the application or the final order allowing the resumption of part of the holding was passed, as the case may be,

(2) Where—

(i) an intermediary has resumed any land under section 10; or

(ii) where any tenant has been restored to the possession of any land under the provisions of this Act; or

(iii) where any serving member of the Armed Forces has not claimed resumption of the land leased by him within the period specified therefor under the second proviso to sub-section (2) of section 6,

the right, title and interest of the landowner and the intermediary, if any, other than the intermediary mentioned in clause (i), in respect of the said lands shall vest in the Government free from all encumbrances created by the said landowner and intermediary with effect from the date of resumption, date of restoration or the date of expiry of the period aforesaid, as the case may be.

43. Tenants' right to assignment.

(1) The intermediary who resumed land under section 10 and the cultivating tenant of the lands the right, title and interest over which have vested in the Government under section 41 or section 42 shall be entitled to assignment of such right, title and interest, subject to the condition that by such assignment the total extent of land owned by the intermediary or the cultivating tenant or where such intermediary or the cultivating tenant is a member of a family, by such family, as the case may be, does not exceed the ceiling area fixed under section 58.

(2) Any tenant entitled to assignment of the right, title and interest over lands under sub-section (1) may apply to the Land Tribunal within six months from the date of the vesting under section 41 or section 42, as the case may be, for such assignment to him.

(3) The application for assignment shall contain the following particulars:–

(a) the village, survey number and extent of the land to which the assignment relates;

(b) the nature of his interest in the land;

(c) the name and address of the landowner and the intermediaries, if any, and also of every other person interested in the land and the nature of their interest so far as they are known to him; and

(d) such other particulars as may be prescribed.

(4) Where a tenant is entitled to get assignment in respect only of a portion of the land held by him, he may indicate in the application under sub-section (2) his choice of the land to which the assignment shall relate.

44. Land Tribunal to issue notices and determine the price of land to be paid by tenants.

(1) As soon as may be after the receipt of the application under section 43, the Land Tribunal shall publish or cause to be published a public notice in the prescribed form in each village within its jurisdiction calling upon—

(a) the landowner and intermediaries, if any, under whom the applicant holds; and

(b) all other persons interested in the land, the right, title and interest over which have vested in the Government, to appear before it on the date specified in the notice. The Land Tribunal shall issue a notice individually to each such landowner, intermediary and also, as far as practicable, to other persons mentioned in clause (b) calling upon them to appear before it on the date specified in the public notice.

(2) It shall be open to any person interested in the land to apply to the Land Tribunal even where notice under sub-section (1) has not been received by him, stating the nature of the claim or objection and the relief he requires.

(3) Where any tenant fails to apply within the period specified in section 43 he shall continue as tenant holding under the Government and shall be liable to pay to the Government rent payable in respect of the land from the date on which the right, title and interest over the land vested in the Government, such rent being recoverable as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force. Notwithstanding anything contained in section 3, the provisions of sections 6, 16 and 17 shall apply to such tenant :

Provided that the Land Tribunal may admit an application after the expiry of the aforesaid period, if the applicant satisfies the Land Tribunal that he was prevented by any sufficient cause from making such application in time.

(4) The Land Tribunal may after giving an opportunity to the landowner, intermediary and other persons interested in the land to be heard and after enquiry, by order, allow the application. The order shall specify the extent, survey number and such other particulars as may be prescribed, of the land to which the assignment relates and the purchase price to be paid by the tenant for the assignment. Where a tenant is entitled to assignment relating only to a portion of the land comprised in his holding, the land to which the order of assignment relates shall, as far as practicable, be within a survey number or contiguous survey numbers.

45. Purchase price.

(1) The purchase price payable by the tenant shall be the aggregate of—

(i) (a) 12 times the rent payable under the contract of tenancy in respect of the land or, where fair rent has been fixed under any law in force before the commencement of this Act, 12 times such fair rent ; or at the option of the tenant,

(b) 16 times the fair rent determined under this Act in respect of the land :

(ii) the value of any structures, wells and embankments of a permanent nature constructed or laid by the landlord or any other person interested in the land other than the tenant ; and

(iii) one-half of the value of timber trees belonging to the land-owner or the intermediaries, if any.

Explanation.—For the purpose of this sub-section—

(i) where the rent is payable in paddy, its money value shall be computed at the average of the prices for paddy for six years immediately preceding the commencement of this Act ;

(ii) the rent payable by a varomdar shall be deemed to be the average of the value of the share of the landlord in the produce for the three years immediately preceding the commencement of this Act or, where a varomdar was not cultivating the land continuously for the said period of three years, the rent payable by him shall be deemed to be the value of the share of the landlord for the year in which

the varomdar cultivated the land last, immediately before the commencement of this Act; and

(iii) where in respect of a holding the fair rent fixed under any law in force before the commencement of this Act, is higher than the rent which was payable under the contract of tenancy, the contract rent shall be deemed to be the fair rent fixed under such law.

(2) The purchase price shall be payable in 16 equal annual instalments.

(3) Notwithstanding anything contained in sub-section (2) it shall be open to the tenant to pay the entire purchase price in a lump, in which case, the purchase price shall be seventy-five per cent of the amount as calculated under sub-section (1).

46. Deposit of purchase price.

(1) On the determination of the purchase price under section 45 the tenant shall deposit with the Land Tribunal to the credit of the Land Board where the amount of the purchase price is to be paid in a lump the whole of such amount within one year, or, where the purchase price is to be paid in instalments, the first instalment thereof within three months, from the date on which the purchase price was so determined or where there has been an appeal under section 51 against the order of the Land Tribunal determining the purchase price, from the date on which the appellate authority passed final order on such appeal. Where a person elects to pay the purchase price in a lump, he shall nevertheless pay the instalment, if any, which falls due before the date fixed for payment of the lump sum and credit shall be given to the instalment so paid at the time of payment of the lump sum.

(2) Where a tenant fails to deposit the first instalment on or before the due date no assignment shall be made to him and he shall continue as tenant, holding under the Government and such tenant shall be liable to pay the rent payable in respect of the land to the Government from the date on which the right, title and interest over the land vested in the Government.

Notwithstanding anything contained in section 3, the provisions of sections 6, 16 and 17 shall apply to such tenant.

(3) Where the purchase price is paid in instalments, the second and subsequent instalments shall be deposited in the Government Treasury in the prescribed manner to the credit of the Land Board.

(4) Pending an appeal under section 51, the tenant shall deposit on the due date the purchase price or the instalments thereof as determined by the Land Tribunal. On the final decision of the appeal, the excess if any, in the deposit shall be adjusted towards the future instalments and where there is no such future instalment it shall be refunded to the tenant.

(5) Where a tenant has taken an assignment, interest at the rate of 4½ per cent per annum shall accrue on the purchase price from the date on which the right, title and interest of the landlord vested in the Government and the tenant shall be bound to pay the purchase price with such interest. Where the purchase price is payable in instalments, the amount outstanding after payment of each instalment shall bear interest at the rate of 4½ per cent per annum.

(6) Pending the determination of the purchase price under section 45 or where there has been an appeal against the determination of the purchase price, pending orders on such appeal, the tenant shall deposit with the Land Tribunal, an amount equal to the rent which would have been payable by him on the dates on which such rent would have become due if the right, title and interest over the land were not vested in the Government. The Land Tribunal shall after intimating the Land Board, pay such amount to the landowner and the intermediaries in proportion to the rent due to them immediately before the vesting in the Government as part payment of the compensation on taking proper security, in case it is found that the landlord is entitled to such amount. The amount so paid by the tenant shall be deducted from the purchase price payable by him and he shall be liable to pay only the balance amount.

(7) A tenant to whom an assignment has been made under section 43 shall be liable to pay to the Government and to any local authority all taxes, cesses and other public charges due in respect of the land to which the assignment relates as from the date on which the right, title and interest vested in the Government.

(8) Notwithstanding anything contained in this Act or in section 7 of the Land Tax Act, 1955, any person continuing as tenant under the Government under sub-section (3) of section 44 or sub-section (2) of this section shall be liable to pay to the Government and to any local authority all taxes, cesses and other public charges due in respect of the land.

47. Purchase price recoverable as arrears of land revenue.

For the purchase price there shall be a first charge on the land subject to the charges for any dues payable to the Government and any instalment in default of the purchase price shall be recoverable as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

48. Land Board to issue certificate of purchase.

On the deposit of the purchase price in a lump or of the first instalment of such price, the land Board shall make the assignment as provided in section 43 in such form as may be prescribed.

49. Determination of value of interest of landowner and intermediary.

In the enquiry held under section 44, the Land Tribunal shall determine by an order the value of the interests of the landowner and the intermediary, if any, in the land, the right, title and interest over which vested in the Government, after giving an opportunity to them to be heard. The value of the interest of the landlord shall, where there is no intermediary, be the purchase price determined under section 45. Where there is an intermediary the value of interest of the landlord and the intermediary shall be such portion of the purchase price as would fall to the landowner and the intermediary respectively on a division of the purchase price in proportion to the profits derived by each from the land. Where there has been no assignment the value of interest shall be determined at—

(i) 12 times the rent payable under the contract of tenancy, or

(ii) 16 times the fair rent determined under this Act in respect of the land according as the tenant was paying the contract rent or fair rent immediately before the vesting.

Explanation :—Profits derived from the land shall, for the purpose of this sub-section, mean in the case of the landowner, the rent to which he is entitled and in the case of an intermediary, the difference between the rent due to him from his tenant and the rent for which the intermediary is liable to his landlord.

50. Determination of encumbrances by the Land Tribunal.

(1) In the enquiry held under section 44 the Land Tribunal shall determine by an order—

(i) any encumbrances created by the landowner and the intermediary, if any; and

(ii) any maintenance or alimony charged on the land and lawfully subsisting on the day on which the right, title and interest of the landlord and the intermediary vested in the Government.

(2) Where the right, title and interest vested in the Government, form part of the security for an encumbrance, maintenance or alimony, the Land Tribunal shall for the purpose of discharging the same, apportion the entire encumbrance, maintenance or alimony, between the security vested and the portion of the security remaining, in proportion to the values of the two portions of the security.

(3) No order under sub-section (1) or sub-section (2) shall be passed without giving the parties affected an opportunity to be heard.

51. Appeals.

(1) Any person aggrieved by any order of the Land Tribunal under section 44, section 49 or section 50 may appeal against such order, within such time as may be prescribed, to the court of the District Judge having jurisdiction over the area in which the land is situate. The decision of the court on such appeal shall be final subject to the provisions of section 76.

(2) Where there has been any modification in appeal from the orders of the Land Tribunal such orders shall be modified accordingly.

52. Landowner and intermediary entitled to compensation.

(1) Where any right, title and interest of the landowner and the intermediary have vested in the Government, the landowner and the intermediary shall be entitled to compensation for the extinguishment of their rights.

(2) The compensation shall be—

(a) where the landowner or the intermediary is religious, charitable or educational institution of a public nature,—

(i) an annuity to be paid in perpetuity equal to the fair rent in respect of the land, the right, title and interest over which have vested in the Government; and

(ii) the value of the structures, wells and embankments of a permanent nature, situated in the land and belonging to such institution;

(b) in any other case, the aggregate of—

(i) the value of structures, wells and embankments of a permanent nature situated in the land and belonging to the landowner or the intermediary, as the case may be; and

(ii) the percentage of the value of interest of the landowner or the intermediary in respect of the land and the improvements other than those falling under sub-clause (i) according to the scales specified in Schedule II,

together with interest at the rate of 4½ per cent per annum with effect rom the date of vesting.

(3) For the purpose of determining the compensation payable to a landowner or intermediary, the Land Tribunal may, on the application of the landowner, intermediary or an officer authorised by the Government in this behalf, determine, as provided in section 16, the fair rent in respect of the land, the right, title and interest over which have vested in the Government.

53. Preparation of valuation statements.

(1) Within two weeks after the expiry of the period of appeal from the orders of the Land Tribunal prescribed under section 51 or where there has been an appeal within two weeks after the disposal of the same, the Land Tribunal shall prepare a statement showing the following particulars:

(a) a description of the land the right, title and interest over which have vested in the Government;

(b) the name of the cultivating tenant of the holding;

(c) the amount of purchase price;

(d) the names of the landowner and the intermediary, if any, of the land;

(e) the value of the interest of the landowner and the intermediary, if any, in the land;

(f) the names of the holders of the encumbrances, maintenance or alimony and the amount payable to each; and

(g) such other particulars as may be prescribed.

A copy of the statement so prepared shall immediately be forwarded to the Land Board by the Land Tribunal.

(2) On receipt of the statement under sub-section (1), the Land Board shall determine the amount of compensation payable to the landowner and the intermediary, if any, and the amount payable to the holders of the encumbrances, maintenance or alimony.

54. Payment of compensation, amount of encumbrance, maintenance or alimony.

(1) Subject to the provisions of sub-section (2) the compensation payable under section 52 shall be distributed by the Land Board to the persons entitled thereto

(2) Where the right, title and interest vested in the Government are subject to any encumbrance, created by the landowner or the intermediary the value of the encumbrance shall be deducted from the compensation amount payable to the landowner or the intermediary, as the case may be, and the balance alone shall be paid. If there is any charge for maintenance or alimony on such right, title and interest, the land Tribunal shall also make deductions for payment out of the compensation amount due to the persons liable for such maintenance or alimony.

If the total amount of such encumbrance, maintenance or alimony is more than the amount of compensation, the compensation amount shall be distributed in the order of their priority and on such payment the liabilities in respect of the encumbrance, maintenance or alimony shall stand extinguished:

Provided that where the landowner or the intermediary is a religious, charitable or educational institution of a public nature and the interst of such institution is subject to any encumbrance created by it, the compensation shall be paid as follows:

(i) where the institution is entitled to the value of structures, embankments and wells under sub-clause (ii) of clause (a) of sub section (2) of section 52 and such value exceeds or is equal to the value of the encumbrance, the value of the encumbrance shall be deducted from such value of structures, embankments and wells and the balance, if any, alone shall be payable under the said sub-clause (ii);

(ii) where no value of such structures, embankments and wells is payable to the institution or their value is less than the value of the encumbrance, an amount equal to five per cent of the value of the encumbrance or five per cent of the difference between the value of encumbrance and the value of the structures, embankments and wells, as the case may be, shall be deducted from the annuity payable under sub-clause (i) of clause (a) of sub-section (2) of section 52, and the balance, if any, alone of the annuity shall be payable to the institution under the aforesaid clause (a);

(iii) the holder of the encumbrance shall, subject to the provisions of clause (iv), be paid the value of the encumbrance in full;

(iv) where the value of the encumbrance exceeds the aggregate of—

(a) the value of the structures, embankments and wells payable to the institution under sub-clause (2) of clause (a) of sub-section (2) of section 52, and

(b) twenty times the annuity payable under sub-clause (i) of the said clause (a),

an amount equal to the aforesaid aggregate alone shall be payable to the holder of the encumbrance and the institution shall not be entitled to any payment;

and where there are more than one such holder of encumbrance, the said amount shall be distributed in the order of priority,

and on payment of the compensation in the manner specified above, the liability in respect of the encumbrance shall stand extinguished:

Provided further that in cases where the encumbrance on the right, title and interest vested in the Government is in respect of a debt under an overdraft agreement with a Banking Company as defined in the Banking Companies Act, 1949, the creditor shall have the right to proceed against the other assets or the person of the debtor for the balance outstanding, if any.

(3) The compensation and the amount of encumbrance shall be paid by the Land Board either in cash or in negotiable bonds redeemable in ten years and carrying interest at the rate of 4½ per cent per annum with effect from the date of vesting in the Government or partly in cash and partly in such bonds.

(4) Where any amount has been deducted for payment of maintenance or alimony the same shall be paid in cash to the persons entitled thereto.

(5) Where a person entitled to the compensation, the value of the encumbrance, maintenance or alimony dies before it is paid to him it shall be paid to his legal representatives.

(6) Where the person entitled to receive the compensation or the value of encumbrance is a private trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the compensation or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of the person with such authority or Bank as may be prescribed.

(7) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation or the amount of encumbrance or maintenance or alimony payable under this Act, the court or authority may require the Land Board to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

55. Payment of compensation to be full discharge.

The payment of compensation or the value of encumbrance, maintenance or alimony to the landowner or intermediary or other persons entitled thereto in the manner prescribed by or under this Act shall be a full discharge of the liability for payment of compensation and no further claims for payment of compensation shall lie.

56 Provisions of sections 41 to 55 not to apply to certain holdings.

The provisions of sections 41 to 55 (both inclusive) shall not apply to a holding held by a tenant under a small holder as defined in section 18 except to the extent otherwise specifically provided in this Act.

CHAPTER III

RESTRICTION UPON OWNERSHIP AND POSSESSION OF LAND IN EXCESS OF CEILING AREA AND DISPOSAL OF EXCESS LANDS

57. Exemption.

(1) The provisions of this Chapter shall not apply to—

(a) lands owned or held by the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or any other authority notified by the Government in this behalf;

(b) lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops;

(c) private forests;

(d) plantations;

(e) house sites, that is to say, sites occupied by dwelling houses, tanks, wells or any other structures together with the land necessary for the convenient enjoyment of the same;

(f) unculturable waste lands;

(g) sites of temples, churches, mosques and cemeteries;

(h) sites of buildings including warehouses;

(i) commercial sites;

(j) lands occupied by educational institutions including lands necessary for the convenient use of the institutions and playgrounds attached to such institutions;

(k) lands, if any, vested in the Bhoodan Yagna Committee;

(l) lands owned or held by—

(i) a University established by law; or

(ii) a religious, charitable or educational institution of a public nature; or

(iii) a public trust (which expression shall include a wakf):

Provided that—

(i) the entire income of such lands is appropriated for the University, institution or trust concerned; and

(ii) where the University, institution or trust comes to hold the said lands after the commencement of this Act, the Government have certified previously that such lands are *bona fide* required for the purposes of the University, institution or trust, as the case may be; and

(m) lands granted to defence personnel for gallantry, for the duration of their life-time,

(2) The Government may, subject to the provisions of sub-section (3), if they are satisfied that it is necessary to do so in public interest on account of any special use to which any land is put, or on account of any land being *bona fide* required for the purpose of conversion into plantation or for the expansion or preservation of an existing plantation, by notification in the Gazette, exempt such land from the provisions of this Chapter subject to such restrictions and conditions as they may deem fit to impose.

(3) A draft of the notification proposed to be issued under sub-section (2) shall be laid before the Legislative Assembly for a period of ten days and the Legislative Assembly may approve the draft with or without modification or disapprove the draft during the period in which it is so laid. On the approval of the draft by the Legislative Assembly the Government shall publish the notification as approved in the Gazette.

If the Legislative Assembly does not—

(i) approve with or without modification; or

(ii) disapprove,

the said draft during the period aforesaid it shall be lawful for the Government to publish the notification in the Gazette in terms of the draft.

58. **Interpretation.**

(1) The ceiling area of land shall be—

(a) in the case of a family consisting of not more than 5 members, 15 acres of double crop nilam or its equivalent, and in the case of a family consisting of more members, an additional extent of 1 acre of double crop nilam or its equivalent for each member in excess, so however that the total extent of the land shall not exceed 25 acres of double crop nilam or its equivalent;

(b) in the case of an adult unmarried person, seven and a half acres of double crop nilam or its equivalent.

(2) For the purposes of this Chapter, all the lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.

(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held by a company, co-operative society, firm or other body of individuals or by an institution or by a Joint Hindu Family, Marumakkathayam Tarwad, Aliyasanthana Family or Namboodiri Illom shall be taken into account.

Explanation :—For the purposes of this sub-section, the share of a member of the family or the adult unmarried person in the lands owned or held by a Company, Co-operative Society, Firm or other body of individuals or by an Institution or by a Joint Hindu Family, Marumakkathayam Tarwad, Aliyasanthana Family or Namboodiri Illom shall be deemed to be the extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under sub-section (1) of section 59.

(4) Where after the 18th December, 1957, any class of land specified in clauses (i), (ii), (iii) or (iv) of sub-section (9) of section (2) has been converted into another class of land, the extent of land that may be owned or held by a family or adult unmarried person owning or holding such land at the time of the conversion shall be determined without taking into account such conversion.

(5) The lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution, or if he is not alive, by his successors in interest.

(6) In computing the ceiling area, lands exempted under section 57 shall be excluded.

Explanation I :—For the purposes of this section where any person has two or more living wives and such plurality of wives is recognised by the personal law governing the parties, such person together with the wife he chooses and her minor unmarried children shall be deemed to be a family and each of the other wife together with her minor unmarried children shall be deemed to be an adult unmarried person, with the right to an increase of one acre of double crop nilam or its equivalent for each member in excess of five, subject to a maximum of 15 such acres.

Explanation II :—A divorced husband or a divorced wife, shall be deemed to be an adult unmarried person, provided that where there are minor unmarried children of such husband or wife, the husband or wife legally entitled to the custody of such children shall, along with the children, be deemed to be a family :

Provided that if they re-marry, the remarried person, will form a family with his or her wife or husband as the case may be.

59. Persons not to own or hold lands in excess of the ceiling area.

(1) Subject to the provisions of sub-sections (2) and (3) with effect from such date as may be notified by the Government, it shall not be lawful for any family or any adult unmarried person to own or to hold or possess under a

mortgage executed after 18th December 1957, land in the aggregate in excess of the ceiling area.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for any family or adult unmarried person to own or hold any cashew estate if it was a cashew estate on 11th April 1957 and continued as such at the commencement of this section and also other lands not exceeding one-half of the ceiling area of such family or adult unmarried person :

Provided that the benefits conferred by this sub-section shall be available to the family or the adult unmarried person, as the case may be, only so long as the cashew estate remains as such.

Explanation.—For the purpose of this clause, 'cashew estate' means lands principally planted with cashewnut trees and having a contiguous extent not below 10 acres.

(3) Notwithstanding anything contained in sub-section (1), it shall be lawful for any adult member in a family to own or hold land in excess of the ceiling area to the extent necessary to make up the ceiling area of his lineal descendants, other than his minor unmarried children, who are alive on the date notified under sub-section (1) and who would inherit his lands on his death :

Provided that the aforesaid adult member shall take into account all acquisitions of land or interests in land made by such lineal descendants or the members of their families for fixing the total extent that such adult member shall be entitled to own or hold, from time to time, and shall be bound to surrender the excess.

Explanation I.—In the case of lineal descendants who are members of other families the ceiling area shall be that applicable to their families.

Explanation II.—For the purposes of this section "to hold land" shall include possessing land under a usufructuary mortgage created on or after 18th December, 1957.

60. Certain voluntary transfers to be null and void.

Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected after 27th July, 1960, otherwise than—

(i) by way of partition ; or

(ii) on account of natural love and effection ; or

(iii) in favour of a person who was a tenant of the holding before the 27th July, 1960, and continued to be so till the date of transfer,

by a member of a family or an adult unmarried person owning or holding land in excess of the ceiling area, shall be deemed to be transfers calculated to defeat the provisions of this Act and shall be invalid :

Provided that without prejudice to any other right of the parties to any such transfer, when any compensation is payable under section 52 or under section 64 for any land covered by the said transfer, it shall be competent for the Land Tribunal to award to the transferee, out of the compensation amount in respect of such land, such sum as the Land Tribunal may consider it just and proper.

61. Surrender of excess lands.

(1) Where a family or an adult unmarried person owns or holds land in excess of the ceiling area on the date notified under section 59, such excess shall be surrendered by the person who is competent to do so within such time and to such authority as may be prescribed :

Provided that where any person *bona fide* believes that the ownership or possession of any land owned or held by him or by the members of his family is liable to vest in the Government under section 41, or section 42 or to be resumed under section 10, or surrendered or purchased under section 18, the extent of the land so liable to vest or to be resumed or surrendered or purchased shall not be taken into account in calculating the extent of the land to be surrendered under this sub-section.

Explanation.—Where any land owned or held by a family or adult unmarried person owning or holding land in excess of the ceiling area, was transferred by such family or any member thereof or by such adult unmarried person, as the case may be, after 18th December, 1957, and on or before 27th July, 1960, otherwise than—

(i) by way of partition ; or

(ii) on account of natural love and affection ; or

(iii) in favour of a person who was a tenant of the holding before the 18th December, 1957, and continued to be so till the date of transfer,

the extent of land owned or held by such family or adult unmarried person shall be calculated for purposes of fixing the extent of land to be surrendered under this section as if such transfer had not taken place and such family or adult unmarried person shall be bound to surrender an extent of land which would be in excess of the ceiling area on such calculation, or where such family or person does not own or hold such extent of land, the entire land owned or held by the family or person ; but nothing in this Explanation shall affect the rights of the transferee under the transfer.

(2) Where a family or adult unmarried person owns or holds land in excess of the ceiling area the husband, or in his absence, the wife or in the absence of both, the guardian of the minor children or, as the case may be, the adult unmarried person shall, within a period of six months from the commencement of this section file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all the lands owned or held by the family or adult unmarried person, and indicating the lands proposed to be surrendered.

Explanation I.—Where lands owned or held by a family stand in the name of more than one member of the family the identity of the land, the ownership or possession or both of which is to be surrendered, shall be indicated as far as practicable with the concurrence of all the members in whose names they stand.

Explanation II.—Where land to be surrendered is owned or held by two or more persons jointly, whether or not as members of a company, co-operative society, firm, or other body of individuals or of an institution or of a joint Hindu family, marumakkathayam tarwad, aliyasanthana family or namboodiri illom,

the identity of the same shall be indicated as far as practicable with the concurrence of all the persons who own or hold such land.

(3) Where after the final settlement of claims for resumption under section 10 or claims for surrender or purchase under section 18 of lands held by a family or adult unmarried person as tenant, such family or person holds land in excess of the ceiling area, or

where after the vesting of the rights, title and interests of the land-owner in the Government under section 18 or section 41 or section 42 in respect of lands owned by a family or adult unmarried person such family or person owns land in excess of the ceiling area,

such excess shall be surrendered by the person who is competent to do so within a period of three months from the date of the final settlement, purchase or vesting, as the case may be. At the time of the surrender he shall file a statement before the Land Board containing the particulars specified in sub-section (2) of the lands held by him. The provisions of sub-section (2) shall, as far as may, apply in regard to the calculation of the excess land and the procedure for the surrender of the same.

(4) On receipt of the statement under sub-section (2) or sub-section (3), the Land Board shall—

(a) cause the particulars mentioned in the statement to be verified;

(b) ascertain whether the family or person to which or to whom the statement relates, owns or holds any other lands; and

(c) determine the identity of the land to be surrendered.

(5) In determining the identity of the land, the Land Board shall, as far as practicable, accept the choice indicated under sub-section (2) or sub-section (3):

Provided that where in such determination the interests of other persons are also likely to be affected the Land Board shall, except in cases where all the persons interested have agreed to the choice indicated, afford an opportunity to such other persons to be heard and pass suitable orders regarding the land to be surrendered.

(6) Where any person fails to file the statement specified under sub-section (2) or sub-section (3), the Land Board shall, after necessary enquiries, by order determine the extent and other particulars of the land the ownership or possession or both, of which is or are to be surrendered :

Provided that before such determination the Land Board shall give an opportunity to the persons interested in the land, to be heard.

(7) Where the Land Board determines the extent of the land to be surrendered by any person without hearing any person interested, such person may within sixty days from the date of such determination apply to the Land Board to set aside the order and if he satisfies the Land Board that he was prevented by any sufficint cause from appearing before the Land Board, it shall set aside the order and shall proceed under sub-section (4) or sub-section (6), as the case may be.

62. Vesting of excess lands in Government.

(1) On the determination of the extent and other particulars of the lands the ownership or possession or both of which is or are to be surrendered under

section 61, the Land Board shall issue a notice to the person bound to surrender demanding the surrender, within a specified date, not being earlier than thirty days from the date of the notice, of the lands or the ownership of lands to such authority as may be specified therein and intimating that in case of default the ownership or possession or both, as the case may be, of the lands determined by the Land Board shall be assumed by the Government within a specified date.

(2) On receipt of such notice, such person shall make the surrender demanded, in such manner as may be prescribed.

(3) Where any person fails to make the surrender demanded, the Land Board may authorise any officer to take possession of the land by going to the land, demarcating it, and by proclaiming by beat of tom tom that possession or possession and ownership, as the case may be, of the land has passed to the Government:

Provided that where the surrender is only of ownership of land, the assumption of ownership shall be made by a declaration in writing by the Land Board to that effect and duly published in the manner prescribed.

(4) Upon the surrender under sub-section (2) or the assumption under sub-section (3), the land or the ownership or possession of the land shall, as the case may be, vest in the Government. Where in respect of any such land there is an intermediary the rights of the intermediary over that land shall stand extinguished.

63. Excess land obtained by gift, etc., to be surrendered.

(1) Subject to the provisions of the proviso to sub-section (3) of section 59 where any person comes by any land after the date notified under sub-section (1) of section 59 on account of gift, purchase, mortgage with possession, lease, surrender or any other kind of transfer *inter vivos* or by bequest or inheritance or otherwise and in consequence thereof, the total extent of land owned or held by the family of such person or by such person, if he is an unmarried adult, exceeds the ceiling area such excess shall be surrendered to such authority as may be prescribed within six months of the date of his coming into ownership or possession.

(2) The Provisions of sections 61 and 62 shall, as far as may be, apply to the surrender to, and vesting in, the Government of the ownership or possession or both of lands under sub-section (1).

64. Persons surrendering land entitled to compensation.

(1) Where a person surrenders ownership or possession or both of land as provided in section 61 or section 63 he shall be entitled to compensation. Where in respect of any such land there is an intermediary, he shall also be entitled to compensation.

(2) The compensation payable to any person surrendering ownership, possession or equity of redemption over any land shall be the aggregate of—

(i) the full value of any structures, wells and embankments of a permanent nature situate in the land and belonging to him; and

(ii) the percentage of the market value of the land and improvements other than those specified in clause (i), calculated as follows:—

On the first Rs. 15,000 of the market value of his interests in all the lands surrendered	..	60 per cent
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	55 ,,
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	50 ,,
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	45 ,,
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	40 ,,
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	35 ,,
On the next Rs. 15,000 of the market value of his interests in all the lands surrendered	..	30 ,,
On the balance of the market value of his interests in all the lands surrendered	..	25 ,,

Explanation.—For the purposes of this clause "the interest of any person" in the land surrendered shall not include his interest with respect to structures, wells and embankments of a permanent nature.

(3) Where the landowner surrenders ownership of excess land, the compensation payable to him and the intermediary, if any, shall be at the same rate as is payable under section 52 as if the right, title and interest of the landowner and the intermediary, if any, vested in the Government.

(4) Where a tenant surrenders possession of excess land the compensation payable to such tenant and the intermediary, if any, shall be such portion of the compensation payable for the surrender of full rights as would fall to the share of the tenant or the intermediary if the amount of compensation were divided among the landowner, intermediary and tenant in proportion to the respective profits derived by each from the land.

Explanation.—"Profits derived from the land" shall mean—

(i) in the case of the landowner, the rent which he was entitled to get from the tenant holding immediately under him;

(ii) in the case of the tenant surrendering possession, the difference between the net income from the land and the rent payable by him to his landlord; and

(iii) in the case of the intermediary, the difference between the rent due to him from his tenant and the rent for which he is liable to his landlord.

(5) Where an owner of land surrenders the equity of redemption over any land, the amount due to the mortgagee under the mortgage shall be deducted from the compensation amount and the balance alone shall be paid to the owner.

(6) Pending the determination of the amount of compensation payable to any person under this section, it shall be competent for the Land Board to pay such amount as it considers proper to such person as part payment of the compensation on taking proper security in case it is found that he is entitled to such amount. The amount so paid shall be deducted from the compensation payable to such person and the Land Board shall pay to him only the balance.

65. Preparation of valuation statement.

(1) As soon as may be after the Land Board has determined the extent and particulars of any land, the ownership or possession or both of which is or are to be surrendered, the Land Board shall, forwarding the necessary documents, direct the Land Tribunal to prepare and submit to the Land Board a statement of the market value of such land and of the interests in the land showing the following particulars :—

(a) the description of the land or interests in the land valued;

(b) the name and address of the person surrendering;

(c) the names and addresses of the cultivating tenant, intermediary and landowner;

(d) the market value of the land or, as the case may be, of the interests of the cultivating tenant, land owner and intermediary;

(e) the names of the holders of the encumbrances, maintenance or alimony pertaining to the interests valued and the amount payable to each; and

(f) such other particulars as may be prescribed.

(2) On receipt of the direction under sub-section (1), the Land Tribunal shall determine the market value of the interests directed to be valued and the amount of the encumbrances, maintenance or alimony subsisting on such interests after giving to all persons interested an opportunity to be heard.

(3) Where any land the ownership or possession or both of which is or are surrendered to, or assumed by, the Government forms part of the security for an encumbrance, maintenance or alimony, the Land Tribunal shall for the purpose of discharging the same apportion the entire encumbrance, maintenance or alimony between the land surrendered to, or assumed by, the Government and the portion of the security remaining in proportion to the values of the two portions of the security.

66. Appeals.

(1) Any person aggrieved by the orders of the Land Tribunal under section 65 may appeal against such order, within such time as may be prescribed, to the court of the District Judge having jurisdiction over the area in which the land is situate. The decision of the court on such appeal shall be final subject to the provisions of section 76.

(2) Where there has been any modification in appeal from the orders of the Land Tribunal such orders shall be modified accordingly.

67. Preparation of compensation statements.

(1) Within two weeks after the expiry of the period of appeal from the orders of the Land Tribunal prescribed under section 66 or where there has been an appeal, within two weeks after the disposal of the same, the Land Tribunal shall prepare a statement showing the particulars mentioned in section 65. A copy of the statement so prepared shall be forwarded immediately to the Land Board by the Land Tribunal.

(2) On receipt of the statement under sub-section (1), the Land Board shall determine the amount of compensation payable to the landowner, the cultivating tenant and the intermediary, if any, in accordance with the scales

specified in section 64 and the amount payable to the holders of the encumbrance, maintenance or alimony.

(3) Subject to the provisions of sub-section (4), the compensation payable under section 64 shall be distributed by the Land Board to the persons entitled thereto.

(4) Where the land or the ownership or possession of land which has been surrendered, is subject to any encumbrance, maintenance, or alimony, the value of the encumbrance, maintenance or alimony shall be deducted from the compensation amount payable to the person liable for such encumbrance, maintenance or alimony. If the total amount of such encumbrance, maintenance or alimony is more than the amount of compensation, the compensation amount shall be distributed to the holders of the encumbrance, maintenance or alimony in the order of priority and on such payment the liabilities in respect of the enumbrance, maintenance or alimony shall stand extinguished:

Provided that where the encumbrance is in respect of a debt under an overdraft agreement with a Banking Company as defined in the Banking Companies Act, 1949, the creditor shall have the right to proceed against the other assets or the person of the debtor.

68. Payment of compensation, amount of encumbrance, maintenance or alimony.

(1) The compensation or the amount of encumbrance, as the case may be, shall be paid either in cash or in negotiable bonds redeemable in ten years and carrying interest at the rate of 4½ per cent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under section 62, or section 63 or partly in cash and partly in such bonds.

(2) The provisions in sub-sections (4), (5), (6) and (7) of section 54 shall, as far as may apply to the payment of compensation and the amount of encumbrance, maintenance or alimony.

69. Payment of compensation to be full discharge.

The payment of compensation in the manner specified in section 68 shall be a full discharge of the liability for payment of compensation and no further claim therefor shall lie.

70. Application for assignment of land.

Any person who does not possess any land or possesses only less than five acres of double crop nilam or its equivalent may apply to the Land Board for assignment of lands to him.

Explanation.—For the purpose of this section "assignment" includes transfer of land by way of lease.

71. Assignment of lands by Land Board.

(1) The Land Board shall after reserving in each village the lands necessary for public purposes, assign the balance of the lands vested in the Government under section 62 or section 63 as specified below:—

(i) the holdings in which there are kudikidappukars shall as far as possible, be assigned to such kudikidappukars;

(ii) out of the remaining area available for assignment--

(a) fifty per cent shall be assigned to the landless agricultural labourers of which one-half shall be assigned to the landless agricultural labourers belonging to Scheduled Castes or Scheduled Tribes residing in the same village or adjacent villages;

(b) thirty-five per cent shall be assigned to small holders and other landlords who are not entitled to resume any land;

(c) the remaining fifteen per cent shall be assigned to the cultivators who do not possess more than 5 acres of double crop nilam or its equivalent:

Provided that in assigning lands under this sub-section to the persons specified in sub-clause (a), (b), or (c), preference shall be given to co-operative societies formed by persons specified in the respective sub-clause:

Provided further that where the excess land that is available for assignment is either kayal or kole nilam, such land shall be assigned only to co-operative societies formed by landless agricultural labourers.

Explanation.--For the purposes of this sub-section, a kudikidappukaran or a tenant of a kudiyiruppu shall be deemed to be a landless agricultural labourer if he does not possess any other land.

(2) The Land Board shall not assign to any person more than 5 acres of double crop nilam or its equivalent.

(3) Where a person possesses any land, only so much land as will make the extent of land in his possession five acres of double crop nilam or its equivalent shall be assigned.

72. Payment of purchase price.

(1) The purchase price of the land assigned on registry under section 71 shall be the aggregate of—

(i) the full value of any structures, wells and embankments of a permanent nature situate in the land; and

(ii) fifty-five per cent of the market value of the land and the improvements other than those specified in clause (i)

and shall be payable in 16 equal annual instalments, the first instalment being payable before the assignment.

(2) Where the purchase price is payable in instalments, the amount outstanding after payment of each instalment shall bear interest at the rate of $4\frac{1}{2}$ per cent per annum.

(3) All amounts due from an assignee shall be a first charge on the land assigned and shall be recoverable as arrears of land revenue under the Revenue Recovery Act for the time being in force.

73. Management of surrendered lands till assignment.

The Land Board shall, subject to such rules as may be made by the Government in this behalf, manage the lands surrendered to them until they are assigned under section 71, by making arrangements for their cultivation and protection.

CHAPTER IV

MISCELLANEOUS PROVISIONS

74. Constitution of Land Board.

(1) The Government shall constitute a Land Board for the whole State for performing the functions of the Land Board under this Act. The Board shall consist of three members, namely :—

(i) the Head of the Land Revenue Department, who shall be the Chairman of the Board ;

(ii) a judicial officer not below the rank of a District Judge nominated by the Government in consultation with the High Court ;

(iii) a member nominated by the Government.

(2) (a) The functions of the Land Board may be exercised by a Bench consisting of all the members of the Board or by a Bench consisting of two members constituted by the Chairman or in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member ;

(b) Where any matter is heard by a Bench consisting of all the three members of the Board and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority ;

(c) Where any matter is heard by a Bench consisting of two members and the members are divided in their opinion on any point, they shall state the point upon which they differ and the matter shall then be heard upon that point only by the third member and such point shall be decided according to the opinion of the third member.

75. Powers of the Land Board and the Land Tribunal.

(1) The Land Board and the Land Tribunal constituted under this Act shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavit ;

(d) issuing commissions for the examination of witnesses or for local investigation; and

(e) any other matter which may be prescribed.

(2) The Land Board shall have superintendence over all the Land Tribunals and the Land Board may—

(a) call for returns from the Land Tribunals ;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of the Land Tribunals ;

(c) prescribe forms in which books, entries and accounts shall be kept by the Land Tribunals; and

(d) on the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard or of its own motion, without

such notice, transfer any application or other proceeding pending before any Land Tribunal to any other Land Tribunal or retransfer the same for trial or disposal to the Land Tribunal from which it was originally transferred.

76. Revision by High Court.

(1) Any person aggrieved by—

(i) any final order passed in an appeal against the order of the Land Tribunal; or

(ii) any final order passed by the Land Board under this Act,

may, within such time as may be prescribed, prefer a petition to the High Court against the order on the ground that the Appellate Authority or the Land Board, as the case may be, has either decided erroneously, or failed to decide any question of law.

(2) The High Court may, after giving an opportunity to the parties to be heard, pass such orders as it deems fit regarding the question of law and the orders of the Appellate Authority or the Land Board, as the case may be, shall, wherever necessary, be modified accordingly.

77. Application of the provisions of section 5 of the Indian Limitation Act.

Unless otherwise specifically provided in this Act, the provisions of section 5 of the Indian Limitation Act, 1908 shall apply to all proceedings under this Act.

78. Special provisions relating to leases for commercial or industrial purposes.

Notwithstanding anything contained in this Act or in any other law or in any contract or order or decree of court, where on any land leased for commercial or industrial purpose the lessee has constructed buildings for such commercial or industrial purpose before 18th December 1957, he shall not be liable to be evicted from such land but shall be liable to pay rent under the contract of tenancy. Such rent shall be liable to be varied every twelve years on the motion of the lessor or the lessee, in such manner as may be prescribed.

Explanation.—If between the 18th December 1957 and the date of commencement of this Act any decree or order of court has been executed and any person dispossessed by delivery, such person shall, on application before the Land Tribunal, be entitled to restoration of possession:

Provided that he shall not be so entitled if the property has passed on to the possession of a *bona fide* transferee for value:

Provided further that such person shall be liable to pay compensation for any improvements effected subsequent to the delivery.

79. Appointment of officers for special purposes.

The Government may appoint any officer for bringing to the notice of the Land Tribunal or the Land Board, as the case may be, any fact or information material for the purpose of implementing the provisions of this Act or for moving the Land Tribunal or the Land Board to take any action necessary for such purpose.

80. Constitution of Agriculturist Rehabilitation Fund.

A fund called the Agriculturist Rehabilitation Fund may be constituted by the Government to be administered by the Revenue Department, in such manner as may be prescribed. It shall consist of the surplus, if any, of the purchase price

after the disbursement therefrom of the compensation, grants or loans by or from the State Government or the Central Government and other moneys, if any, raised by the Government in accordance with the rules, framed by the Government in this behalf. The fund shall be utilised for rendering help by way of loan, grant or otherwise to persons affected by this Act who are eligible for the same in accordance with the rules framed by the Government.

81. Delegation of powers.

The Land Board may, by general or special order in writing delegate to the Land Tribunal any of its powers under this Act subject to such conditions and reservations as it may deem fit.

82. Special provisions for application of the Act.

(1) If any difficulty arises in the application of the provisions of this Act to any area on account of local variations or difference in nomenclature between the tenures prevailing in that area (by whatever name such tenures may be known) and the corresponding tenures prevailing in the remaining part of the State, the Government may, subject to the provisions of sub-section (2), by notification in the Gazette, direct that the said provisions shall apply to the aforesaid area subject to such adaptations, exceptions and modifications as may be specified in this behalf in such notification.

(2) A draft of the notification proposed to be issued under sub-section (1) as also a draft of the notification proposed to be issued under clause (42) of section 2, shall be laid before the Legislative Assembly for a period of ten days and the Legislative Assembly may approve the draft with or without modification or disapprove the draft during the period in which it is so laid. On approval of the draft by the Legislative Assembly, the Government shall publish the notification as approved, in the Gazette. If the Legislative Assembly does not—

(i) approve with or without modification; or

(ii) disapprove,

the said draft during the period aforesaid it shall be lawful for the Government to publish the notification in the Gazette in terms of the draft.

83. Rent under certain contracts of tenancy not to be affected.

Notwithstanding anything contained in sub-section (2) of section 5 of the Cochin Verumpattomdars Act, VIII of 1118, the pattam payable by a Verumpattamdar, to whom the provisions of the said sub-section applied, for the period subsequent to the first day of Chingom, 1124 till the date of commencement of this Act, shall only be the amount payable immediately before the commencement of the said Verumpattomdars Act, whether or not, such contract was renewed after such commencement.

84. Apportionment of land value in cases of acquisition.

(1) Where the land comprised in a holding is acquired under the law for the time being in force providing for the compulsory acquisition of land for public purposes, the compensation awarded under such law in respect of the land acquired shall be apportioned among the land-owner, intermediaries, cultivating tenant and the Kudikidappukaran in the manner specified in sub-sections (2) to (4).

(2) The compensation for any building or other improvements shall be awarded to the person entitled to such building or other improvements.

(3) The Kudikidappukaran shall be entitled to ninety per cent of the value of the land occupied by his homestead or hut.

(4) The balance remaining after making the payments referred to in sub-sections (2) and (3) shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land acquired immediately before such acquisition.

Explanation.—"Profits derivable from the land" shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get from the tenat holding immediately under him, (ii) in the case of an intermediary the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord, and (iii) in the case of a cultivating tenant the difference between the net income and the rent payable by him ; and the rent payable by the cultivating tenant and the intermediary for the purpose of this explanation shall be as calculated under the provisions of section 16.

(5) Where the land acquired is comprised in the holding of a Kudiyan, as defined in the Travancore Jenmi and Kudiyan Act of 1071, or of a Kanom Tenant as defined in the Kanom Tenancy Act, 1955, the compensation amount to be apportioned under sub-sections (2) to (4) shall be the share of the Kudiyan or the Kanom Tenant as ascertained under section 45 of the Travancore Jenmi and Kudiyan Act of 1071, or section 48 of the Kanom Tenancy Act, 1955, as the case may be.

85. Amendments to certain enactments.

(1) Sections 7 and 9 of the Devaswom Verumpattamdars (Settlement) Proclamation XXIII of 1118, shall be omitted.

(2) In the Explanation I to section 45 of the Travancore Jenmi and Kudiyan Act of 1071, for the words "Sixteen and two-third times" the words "eight and one-third times" shall be substituted.

(3) In the Explanation I to section 48 of the Kanom Tenancy Act, 1955, for the words "Sixteen and two-third times" the words "eight and one-third times" shall be substituted.

86. Appearance before the Land Tribunal or the Land Board.

(1) Any appearance, application or act in or to any Land Tribunal or Land Board required or authorised by law to be made or done by a party in such Land Tribunal or Land Board, may be made or done by the party in person or by his recognised agent or by a pleader appearing, applying or acting as the case may be on his behalf:

Provided that any such appearance shall, if the Land Tribunal or Land Board so directs, be made by the party in person.

(2) The recognised agents of parties by whom such appearance, application and act may be made or done are persons holding powers of attorney authorising them to make and do such appearance, application and act on behalf of such parties.

87. Court fees.

Notwithstanding anything contained in the Court Fees Act for the time being in force, every application or appeal made under this Act to the Land

Tribunal or the Land Board shall bear court-fee stamp of such value as may be prescribed.

88. Members of the Land Board and the Land Tribunal to be deemed public servants.

The members of the Land Board and the Land Tribunal and any officer appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

89. Penalty.

(1) Whoever willfully contravenes the provisions of sub-section (2) of section 61 or section 63 or of any rules made under this Act, shall on conviction be liable for the first offence to fine not exceeding one hundred rupees and for every subsequent offence to fine not exceeding one thousand rupees.

(2) An offence for the contravention of the provisions of sub-section (2) of section 61 or section 63 or of any rules made under this Act shall be cognisable.

90. Protection of action taken under Act.

No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

91. Bar of jurisdiction of Courts.

No order of the Land Tribunal or the Land Board under this Act shall be called in question in any court, except as provided in this Act.

92. Act to override other laws, etc.

The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or in any contract, express or implied, inconsistent with the provisions of this Act.

93. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of this Act, the Goverment may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act, which appears to them necessary for the purpose of removing the difficulty.

94. Power to make rules.

(1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for the following matters :—

(a) the fees payable on applications or claims made before the Land Tribunal or the Land Board and the persons by whom and the period within which such fee shall be paid;

(b) the registers to be kept and maintained by the Land Tribunal and the Land Board and the particulars to be entered therein;

(c) the procedure to be followed in the preparation of valuation statements;

(d) the filing of statements before the Land Tribunal and the Land Board;

(e) the procedure to be followed by the Land Tribunal and the Land Board;

(f) the assignment of lands by the Land Board under section 71;

(g) the management of land before assignment under section 73;

(h) any other matter which under this Act is to be or may be prescribed.

(3) The rules shall be published in the Gazette and upon such publication shall have effect as if enacted in this Act. The rules shall be placed on the table of the Legislative Assembly for a period of fourteen days as soon as may be after they are published and shall be subject to such modifications, by way of repeal or amendment, as the Assembly may make during the session in which they are so laid or the session immediately following.

95. Repeal.

(1) The enactments mentioned in Schedule III are hereby repealed.

(2) (a) The Proclamation XVI of 1122 (Cochin), dated the 14th February 1947, the Proclamation VI of 1124 (Cochin), dated 12th January 1949, the Kerala Stay of Eviction Proceedings Act, 1957 and the Madras Tenants and Ryots Protection Act, 1949, are hereby repealed and all suits, appeals, revisions, reviews and proceedings in execution of decrees stayed by the said enactments may be disposed of in accordance with the provisions of this Act.

(b) The costs in respect of the suits, appeals, revisions, reviews and execution proceedings stayed by the enactments specified in clause (a) shall be in the discretion of the court.

(3) Any decree passed before the commencement of this Act for the eviction of a tenant from his holding pursuant to which eviction has not been effected may, on the application of the tenant or the landlord, be reopened and the matter may be disposed of in accordance with the provisions of this Act.

(4) Any suit for restoration, filed under section 24 or section 26 of the Malabar Tenancy Act, 1929, and pending disposal at the commencement of this Act shall be disposed of in accordance with the provisions of the said Act as if that Act had not been repealed.

(5) (a) Where the decree-holder, plaintiff, appellant or petitioner, as the case may be, is a person entitled to resumption under section 10 he shall have the right to apply to the court to allow resumption of the holding or any part thereof to which he is entitled.

(b) The application under clause (a) shall be made within one year from the commencement of this Act and shall contain a statement of facts in support of the claims of the applicant and also the names and addresses of all persons who have interest in the holding either as owner, lessee or Kudikidappukaran.

(c) The court shall dispose of the application as if it were an application for resumption before the Land Tribunal under section 10.

(6) Notwithstanding anything contained in section 11 of the Code of Civil Procedure, 1908, the right conferred on the decree-holder, plaintiff, appellant or petitioner, as the case may be, under clause (a) of sub-section (5) shall not be deemed to take away or in any manner affect his right to apply for resumption under section 10.

SCHEDULE I

(See Section 14)

Sl. No.	Class of land	Normal Rent	
		Maximum	Minimum
(1)	(2)	(3)	(4)
1	Lands converted into nilam by tenant's labour, other than those falling under items 5 and 6	1/6 of the gross paddy produce	1/12 of the gross paddy produce
2	Single crop nilam converted into double crop nilam by tenant's labour, other than that mentioned in the second proviso to clause (32) of section 2, and not falling under items 5 and 6—		
	(i) For first crop	1/4 of the gross paddy produce	1/6 of the gross paddy produce
	(ii) For second crop	1/6 of the gross paddy produce	1/12 of the gross paddy produce
3	Kole lands	1/6 of the gross paddy produce	1/8 of the gross paddy produce
4	Land not being Kari nilam cultivated on—		
	(i) Kaipad system	1/8 of the gross paddy produce	1/12 of the gross paddy produce
	(ii) Palliyal system	1/8 of the gross paddy produce	1/12 of the gross paddy produce
5	Nilams in Wynaad Taluk—		
	(i) Converted by tenant's labour	*1/20 of the gross paddy produce *plus* an amount equal to the annual basic tax and local cesses payable	1/20 of the gross paddy produce *plus* an amount equal to the annual basic tax and local cesses payable

* The maximum and minimum rates of normal rent in this case are the same.

SCHEDULE I—(contd.)

(1)	(2)	(3)	(4)
	(ii) Not falling under item (i) above	*1/12 of the gross paddy produce *plus* an amount equal to the annual basic tax and local cesses payable	1/12 of the gross paddy produce *plus* an amount equal to the annual basic tax and local cesses payable
6	Nilams in the Taluks of Devicolam, Peermade and Udumbanchola and Attappady Valley and other similar areas to be notified by the Government—		
	(i) converted by tenant's labour	1/16 of the gross paddy produce	1/20 of the gross paddy produce
	(ii) Not falling under item (i) above	1/8 of the gross paddy produce	1/12 of the gross paddy produce
7	Nilams not falling under item 1, item 2, item 3, item 5 or item 6.	1/4 of the gross paddy produce	1/6 of the gross paddy produce
8	Garden—		
	(a) Cocoanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/12 of the gross cocoanut produce	1/16 of the gross cocoanut produce
	(b) Cocoanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/3 of the gross cocoanut produce	1/4 of the gross cocoanut produce

* The maximum and minimum rates of normal rent in this case are the same.

SCHEDULE I—(contd.)

(1)	(2)	(3)	(4)
	(c) Arecanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/12 of the gross arecanut produce	1/20 of the gross arecanut produce
	(d) Arecanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/4 of the gross arecanut produce	1/5 of the gross arecanut produce
	(e) Pepper vine in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/8 of the gross pepper produce	1/20 of the gross pepper produce
	(f) Pepper vine in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958.	1/4 of the gross pepper produce	1/5 of the gross pepper produce
9	Paramba	1/8 of the gross produce	1/16 of the gross produce
10	(i) Tharissu land cultivated with groundnut or other crops notified by the Government	1/8 of the gross produce	1/16 of the gross produce
	(ii) Tharissu land not falling under item (i) above.	Rs. 15 per acre	Rs. 5 per acre
11	Lands under Punam or Kumri cultivation	Rs. 5 per acre	Rs. 3 per acre
12	Lands the gross produce of which cannot be ascertained under the provisions of this Act.	Contract rent	Contract rent

SCHEDULE II

(See section 52)

Scales of Compensation

Value of interest	*Rate*
On the first Rs. 15,000	100 per cent
On the next Rs. 10,000	95 per cent
On the next Rs. 10,000	90 per cent
On the next Rs. 10,000	85 per cent
On the next Rs. 10,000	80 per cent
On the next Rs. 10,000	75 per cent
On the next Rs. 10,000	70 per cent
On the next Rs. 10,000	65 per cent
On the next Rs. 10,000	60 per cent
On the next Rs. 10,000	55 per cent
On the next Rs. 10,000	50 per cent
On the next Rs. 10,000	45 per cent
On the next Rs. 10,000	40 per cent
On the next Rs. 10,000	35 per cent
On the next Rs. 10,000 and above ..	30 per cent

SCHEDULE III

(See section 95)

1.	The Cochin Verumpattomdars Act, VIII of 1118.	As in force in any part of the State of Kerala
2.	The Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955.	
3.	The Malabar Tenancy Act, 1929.	
4.	The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956	

NOTIFICATION*

No. 10943/60/Law (H) 2. *Dated, Trivandrum, 3rd February 1961.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 21st day of January 1961.

* Published in the Kerala Gazette, Extraordinary, Vol. VI, No. 8, dated 3—2—1961 (14th Magha 1882).

THE JENMIKARAM PAYMENT (ABOLITION) ACT, 1960
ACT 3 OF 1961

An Act for the abolition of Jenmikaram payable under the Travancore Jenmi and Kudiyan Act, 1071.

Preamble.—Whereas it is necessary, in public interest, to abolish the recurring and periodical payment of jenmikaram to Jenmies under the Travancore Jenmi and Kudiyan Act of 1071 and to provide for the payment of a lump sum compensation to the Jenmies in lieu of such periodical payments and thus conferring on the kudiyans full proprietary rights over their holdings and for other matters incidental thereto;

Be it enacted in the Eleventh Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Jenmikaram Payment (Abolition) Act, 1960.

(2) It extends to the whole of Travancore area in the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. Definitions.

In this Act, unless the context otherwise requires,—

(a) 'appointed day' means the day on which the Act comes into force;

(b) 'Compensation Officer' means the officer appointed under section 21;

(c) the terms "jenmom land", "jenmi", "kudiyan", "Kanappattam", "jenmikaram" and "holding" have the same meaning as in the Travancore Jenmi and Kudiyan Act of 1071;

(d) "prescribed" means prescribed by rules under this Act;

(e) "register of jenmikarams" means the register of jenmikarams referred in section 40B of the Travancore Jenmi and Kudiyan Act of 1071.

CHAPTER II

ABOLITION OF JENMIKARAM AND PAYMENT OF COMPENSATION TO JENMIES

3. Jenmikaram to be abolished.

(1) From and after the commencement of this Act, notwithstanding anything contained in any law or contract for the time being in force, the Jenmi shall not have the right to receive payment of Jenmikaram and the Kudiyan shall have no liability to pay any Jenmikaram to the Jenmi and the right to receive payment of, and the liability to pay, Jenmikaram shall be extinguished.

(2) Every Jenmi whose right to receive payment of Jenmikaram has been extinguished under sub-section (1), shall be entitled to receive and be paid compensation by the Government as hereinafter provided.

4. Amount of compensation to be paid.

(1) Government shall pay to every Jenmi other than a religious or charitable institution of a public nature whose right to receive payment of Jenmikaram has been extinguished, compensation according to the scales specified in the Schedule. In computing the compensation payable, 2½ per centum shall be deducted from the Jenmikaram for collection charges and the balance alone shall be multiplied as provided for in the Schedule. The amount of compensation determined according to the scale specified above shall be deemed to have accrued due from the appointed day and interest thereon shall be payable at the rate of 4 per centum per annum from the appointed day till the date of payment of compensation in case the amount of compensation is paid in cash or till the date of redemption of the bonds, if compensation is paid in Government bonds.

(2) Where the jenmi whose right to receive payment of jenmikaram has been extinguished is, at the commencement of this Act, a religious or charitable institution of a public nature, Government shall, by way of compensation, pay to the institution every year an amount equal to the balance arrived at after deducting from the jenmikaram which such institution was entitled to receive immediately before the commencement of this Act, two and a half per cent of such jenmikaram towards collection charges.

(3) If any question arises as to whether an institution is a religious or charitable institution of a public nature it shall be decided by such authority as may be prescribed.

5. Compensation to be paid in cash or in bonds.

The compensation payable under section 4 may be paid either in cash or in Government bonds carrying 4 per centum interest per annum and redeemable at the expiration of 6 years from the date of issue of bonds or partly in cash and partly in bonds, as may be prescribed.

6. Interim compensation to be paid in case of delay in payment of compensation.

(1) Where there is delay in the assessment or payment of compensation payable under section 4, Government may direct payment of interim compensation to such extent and in such manner as may be prescribed, provided that if the compensation payable to a Jenmi has not been determined in accordance with the provisions of this Act before the expiry of one year from the appointed day,

Government shall, on the application of the Jenmi concerned, direct the payment of an interim compensation.

(2) The interim compensation paid under sub-section (1) shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted against it.

(3) Where there is a dispute in regard to the right to the compensation amount or any portion thereof, no interim compensation or part as the case may be shall be paid to the Jenmi.

7. Proceedings relating to payment of compensation to lie before Compensation Officer.

All proceedings relating to the assessment of compensation payable to the Jenmi under section 4 and to the payment of the same to the persons entitled thereto shall lie before the Compensation Officer within whose jurisdiction the holding is situate.

8. Jenmikaram Register presumed to describe correctly the right, title and interest of the Jenmi and Kudiyan.

Every entry in the Register of Jenmikaram prepared or revised under the Travancore Jenmi and Kudiyan Act, 1071, and which is valid and effective immediately before the appointed day shall for the purpose of assessment and payment of compsnsation under this Act be deemed to describe correctly the right, title and interest of every Jenmi and Kudiyan in respect of the holding or part thereof to which it relates:

Provided that—

(a) any modification, alteration or correction made in the register under the Travancore Jenmi and Kudiyan Act or in consequence of any decree or order of any Court, shall be taken into account by the Compensation Officer;

(b) nothing contained in this section shall preclue the Compensation Officer from correcting, either on his own motion or on the application of any person interested, any clerical or arithmetical mistake or error apparent on the face of the record, if he is satisfied that such a mistake or error exists in any entry in the register.

9. Compensation rolls to be prepared by the Compensation Officer.

With a view to the payment of compensation to the Jenmies under this Act, the Compensation Officer shall in the manner prescribed, prepare a draft compensation roll of every Jenmi in respect of his holding showing—

(a) the jenmikaram in respect of the holding or part thereof;

(b) the names of persons entitled to receive the Jenmikaram;

(c) the Kudiyans liable to pay the jenmikaram in respect of the holding or part thereof;

(d) the amount of compensation payable under this Act; and

(e) such other particulars as may be prescribed.

10. Publication of draft compensation roll.

(1) After the draft compensation roll is prepared under section 9, the Compensation Officer shall—

(a) publish a notice in the Gazette and in such other manner as may be prescribed to the effect that the compensation roll has been prepared and is open to inspection by the person interested;

(b) serve or cause to be served on the Jenmi and the Kudiyan concerned a notice along with a copy of the compensation roll.

(2) The notice under sub-section (1) shall call upon all persons interested including members of the family of the Jenmi claiming any portion of such compensation whether by way of a share or by way of maintenance or otherwise, to appear and file objections and claims within such period as may be prescribed.

(3) If any objection is filed within the time prescribed, it shall be registered by the Compensation Officer who shall fix a date for hearing the same and shall give intimation thereof to the Jenmi concerned and to any person interested who may have appeared in reply to the notice under sub-section (2).

(4) On the date fixed or any date to which the proceedings are adjourned the Compensation Officer shall inquire into and decide the claims and objections.

(5) In hearing and deciding the objections filed under sub-section (3), the Compensation Officer shall, in so far as they may be applicable, have all the powers of a Civil Court, and subject to such modifications as may be prescribed, follow the procedure laid down in the Code of Civil Procedure, 1908, for the hearing and disposal of suits relating to immovable property.

11. Orders of Compensation Officers to be deemed to be decrees of Civil Courts.

(1) The order of the Compensation Officer in deciding an objection under section 10 or apportioning the compensation among the persons entitled thereto shall be deemed to be a decree of a Civil Court and shall contain a concise statement of the case, the points for determination, the decisions thereon and the reasons for such decisions.

(2) Notwithstanding anything contained in any law, any person aggrieved by the order of the Compensation Officer may appeal within thirty days to the District Court having jurisdiction over the area and the order of the District Court upon such appeal shall be final:

Provided that the High Court, for the purposes of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the records of the cases and pass such order with respect thereto as it thinks fit.

12. Corrections to the final compensation rolls.

Except as provided by or under this Act, no correction shall be made in the compensation roll after it has become final, provided that the Compensation Officer, having jurisdiction for the time being, may at any time, before the payment of compensation either of his own motion or on any application filed by a person interested, correct any clerical or arithmetical mistake or any error arising therein from any accidental slip or omission.

13. Payment of compensation.

(1) The compensation payable under this Act shall be paid to the persons whose names have been entered in the compensation roll as being entitled thereto.

(2) Where a person entitled to the compensation dies before it is paid to him, it shall be paid to his legal representatives.

(3) Where the person entitled to receive the compensation is a trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the compensation may, notwithstanding anything contained in any law, but subject to any general directions that the State Government may give, be deposited for and on behalf of the person with such authority or Bank as may be prescribed.

(4) Where before any Court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation payable under this Act, the Court or authority may require the Compensation Officer to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of such Court or authority.

14. Payment of compensation to be full discharge of the liability to pay jenmikaram.

(1) The payment of compensation to the Jenmies or other persons entitled thereto in the manner prescribed by or under this Act shall be a full discharge of the liability for payment of Jenmikaram and no further claims for Jenmikaram or for payment of compensation shall lie.

(2) Notwithstanding anything to the contrary contained in this Act any arrear of Jenmikaram due to a Jenmi immediately prior to the commencement of this Act and remaining unpaid after such commencement may be recovered by or on behalf of the Jenmi in the same manner as before the commencement of this Act in six equal yearly instalments.

CHAPTER III

RECOVERY FROM KUDIYANS OF THE COMPENSATION AMOUNTS PAID TO JENMIES

15. Kudiyan liable to pay compensation.

The Government shall be entitled to collect from each Kudiyan and each Kudiyan shall be liable to pay to the Government an amount calculated at $8\frac{1}{3}$ times the Jenmikaram payable by him to his Jenmi towards compensation for the extinguishment by the Government of his liability to pay Jenmikaram to his Jenmi and the conferment of full ownership on him in respect of his holding. The compensation recoverable from a Kudiyan shall, subject only to the priority of any tax or cess payable to the Government, be a first charge on the holding and shall be recovered from the Kudiyans in the manner hereinafter provided.

16. Compensation recoverable in sixteen instalments.

The Kudiyan shall be liable to pay to Government the compensation due from him under section 15 in sixteen equal half-yearly instalments with interest at 5 per centum per annum, the first instalment commencing from such date as Government may notify, provided that nothing in this section shall be deemed to preclude a Kudiyan from paying at any time a larger sum than the amount of an instalment or from paying the whole amount due in one instalment. If any sum in excess of the amount of any instalment be paid, it shall be credited in reduction of the total amount due, the number of future instalments being, if necessary reduced, but no postponment of subsequent instalment shall be permitted, nor

shall the alteration in the amounts of subsequent instalments allowed except in the final instalment, if such alteration is necessary to adjust the balance due. Where a Kudiyan pays the entire amount due in a lump sum on the date on which the first instalment is payable, he shall be allowed a rebate of 5 per centum of the amount so paid.

17. Payment of compensation in the nearest treasury.

All payments due under section 16 shall be paid at the nearest Government Treasury or the Village Office within the jurisdiction of which the holding is situate to the credit of the Government or at such other place and in such manner as Government may prescribe.

18. Government may condone default.

Government may, by a general or special order notified in the Gazette, for sufficient reason, postpone the payment of any instalment or condone the default.

19. Kudiyan's continued liability to repay compensation in case of division or transfer of holding.

Where a holding is divided or transferred by sale, gift or otherwise by a Kudiyan, he shall continue liable for the payment of the compensation amount due to Government unless such division or transfer is effected with the permission of the Collector or such other officer empowered in this behalf, and the necessary entries fixing the respective liabilities have been made in the revenue records in accordance with the division or transfer, provided that nothing in this section shall preclude Government to proceed against the entire holding and recover the amounts due to Government, leaving the parties to settle their claims against each other between themselves.

20. Compensation recoverable under Revenue Recovery Act.

Any amount due to the Government as arrears of compensation amount or otherwise may be recovered under the provisions of the Travancore-Cochin Revenue Recovery Act, 1951 (VII of 1951), as if they were arrears of public revenue due to the Government.

CHAPTER IV

MISCELLANEOUS

21. Compensation Officer.

The Government shall appoint Compensation Officers for the purpose of determining compensation payable under this Act and for the purpose of settling the amounts due to Government from Kudiyans.

22. Compensation Officer a public servant.

(1) Compensation Officers appointed under section 21 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(2) The Compensation Officer shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters :—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving the evidence on affidavit ; and

(d) requisitioning any public record or a copy thereof from any court or office.

23. No action to lie against Government or any officer.

(1) No suit or other legal proceedings shall lie against the Government for any act done or purporting to be done under this Act.

(2) No suit, prosecution or other legal proceedings shall be instituted against any officer or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

24. Rules.

(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

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

(a) the authority by whom the question as to whether an institution is a religious or charitable institution of a public nature is to be decided, appeals therefrom and the procedure to be followed in deciding the question and in appeals;

(b) the proportion in which the compensation may be paid in cash and in bonds;

(c) the extent and manner of payment of interim compensation;

(d) the manner in which the compensation roll has to be prepared;

(e) the time within which objections have to be preferred on the notice of compensation roll;

(f) the fee to be paid on the memorandum of appeal under sub-section (2) of section 11;

(g) the authority or bank in which deposits may be made under sub-section (3) of section 13;

(h) the date from which the payment of the 1st instalment of compensation by Kudiyan shall begin;

(i) the places where the compensation amount may be paid by the Kudiyan; and

(j) for all matters expressly required or allowed to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of previous publication.

(4) All rules made under this Act shall be published in the Gazette and shall have effect as if enacted in this Act.

(5) All rules made under this section shall, as soon as may be after they are made, be laid before the Legislative Assembly for a period of not less than seven days and shall be subject to such modifications, by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

25. Difficulties.

If any difficulty arises in giving effect to the provisions of this Act, the Government as occassion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

26. Repeal.

The Travancore Jenmi and Kudiyan Act, 1071 is hereby repealed :

Provided that such repeal shall not—

(a) revive anything not in force or existing at the time at which repeal takes effect; or

(b) affect the previous operation of the enactment so repealed or anything done or suffered thereunder; or

(c) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation or liability under the enactment so repealed and any such investigation legal proceedings or remedy may be instituted, continued or enforced as if the said enactment had not been repealed.

SCHEDULE

(See Section 4)

	Aggregate of the Jenmikaram due to a Jenmi.	*Compensation payable to the Jenmi.*
(a)	Rs. 500 and below	12 times the Jenmikaram less the collection charges.
(b)	Above Rs. 500 but not exceeding Rs. 1,000	9 times the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (a).
(c)	Above Rs. 1,000 but not exceeding Rs. 3,000	7 times the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (b).
(d)	Above Rs. 3,000 but not exceeding Rs. 7,000	5 times the Jenmikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (c).
(e)	Above Rs. 7,000	4 times the Jemikaram less collection charges subject to a minimum which is not less than the maximum amount payable under (d).

NOTIFICATION*

No. 9843/60/Law (H) 3. *Dated, Trivandrum, the 30th January, 1961.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 21st day of January 1961.

* Published in the Kerala Gazette, Extraordinary, Vol. VI, No. 6, dated 30—1—1961 (10th Magha 1882).

THE KERALA AGRICULTURISTS DEBT RELIEF (Amendment) ACT, 1960 (Act 2 of 1961)

An Act to amend the Kerala Agriculturists Debt Relief Act, 1958 (31 of 1958).

Preamble.—Whereas it is expedient to amend the Kerala Agriculturists Debt Relief Act, 1958 (31 of 1958), for the purposes hereinafter appearing;

Be it enacted in the Eleventh Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Kerala Agriculturists Debt Relief (Amendment) Act, 1960.

(2) It shall be deemed to have come into force on the 14th day of July 1958.

2. Amendment of section 2, Act 31 of 1958.

In section 2 of the Kerala Agriculturists Debt Relief Act, 1958 (Act 31 of 1958), hereinafter referred to as the principal Act,—

(1) in clause (a), after the words "horticultural land" and before the words "and shall include a varomdar", the words "in the State of Kerala" shall be inserted;

(2) in sub-clause (iii) of clause (a), the words and figures beginning with the words "or any person liable to pay basic tax" and ending with the words "before the comm encement of this Act", and the Explanation to the said sub-clause shall be omitted;

(3) in clause (c),—

(i) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

'(ii) any sum payable to the Reserve Bank of India, the State Bank of India, any subsidiary Bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, the Travancore Credit Bank (in liquidation) constituted under the Travancore Credit Bank Act, the Financial Corporation established for the State of Kerala under the State Financial Corporations Act, 1951, or any co-operative society, including a Land Mortgage Bank, registered or deemed to be registered under the Travancore-Cochin Co-operative Societies Act, 1951, or the Madras Co-operative Societies Act, 1932:

Provided that the right of the Bank, Corporation or society to recover the sum did not arise by reason of an assignment made subsequent to the 1st day of July, 1957;";

(ii) in sub-clause (ix), for the words "any rent", the words "any rent or michavaram" shall be substituted;

(iii) in sub-clause (x), in clause (d) of the Explanation, for the words "on the failure of the foreman", the words "on the failure of the foreman or foremen" shall be substituted;

(iv) in sub-clause (xi), for the proviso, the following proviso shall be substituted, namely:—

"Provided that in the case of any debt exceeding one thousand five hundred rupees borrowed under a single transaction and due before the commencement of this Act to any banking Company as defined in the Banking Companies Act, 1949, any agriculturist-debtor shall be entitled to repay such debt in eight equal half-yearly instalments as provided in sub-section (3) of section 4, but the provisions of section 5 shall not apply to such debt.";

(v) in clause (ii) of Explanation I to clause (c), for the words "whether before or after the commencement of this Act, among the heirs, legal representatives or assigns of a debtor or of a creditor or as a result of partition", the words "in any manner whatsoever, whether before or after the commencement of this Act" shall be substituted;

(4) after clause (f), the following clauses shall be inserted, namely:—

"(ff) "melpattam" means any transaction relating only to the usufructs of trees for a specific period in recoupment of an advance made or promised;

(fff) "melpattamdar", "mortgagee", "debtor" and "creditor" shall include the heirs, legal representatives and assigns of the melpattamdar, mortgagee, debtor and creditor respectively:

Provided that in the case of a debtor such heirs, legal representatives and assigns are also agriculturists.".

3. Amendment of section 3, Act 31 of 1958.

In section 3 of the principal Act,—

(1) in sub-section (1) and in Explanation I thereto, for the words "shall be made", the words "shall be made or continued" shall be substituted;

(2) in sub-section (2), the words "into court" shall be omitted.

4. Substitution of new section for section 4, Act 31 of 1958.

For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. **Payment of debt in instalments.**

(1) Subject to the provisions of sub-section (5), notwithstanding anything contained in any law or contract or in any decree or order of court, any debt may be discharged in the manner specified in sub-sections (2) and (3).

(2) If any debt is repaid in seventeen equal half-yearly instalments together with interest at the rate specified in sub-section (1) of section 5 on the principal debt outstanding at the time of each payment, the whole debt shall be deemed to be discharged:

Provided that in the case of debts due to a banking company as defined in the Banking Companies Act, 1949, the number of instalments in which the debt shall be repaid shall be twelve where the debt does not exceed one thousand and five hundred rupees and eight where it exceeds one thousand and five hundred rupees.

(3) The first instalment of any debt payable under sub-section (2) s hall be paid before the expiry of a period of six months from the date of the commencement of this Act and each of the remaining instalments shall be paid on or before the date of expiry of a period of six months from the last day on which the previous instalment was due.

(4) Notwithstanding anything contained in sub-section (2), except in the case of the last instalment, the amount paid at each instalment shall not be less than five rupees.

(5) Where any instalment of any debt is not paid on the due date the creditor shall be entitled to recover the same as provided in section 10 but the debtor shall not forfeit the benefits conferred by this section:

Provided that if default is made in payment of six consecutive instalments the debtor shall not be entitled to the benefits of the provisions of sub-section (2) and sub-section (3) and the whole debt together with such interest as may have accrued thereon *less* any amount that have already been paid shall be forthwith payable.

(6) The provisions of this section shall not apply to mortgages to which section 11 applies except as provided in sub-section (6) of that section.".

5. Substitution of new section for section 5, Act 31 of 1958.

For section 5 of the principal Act, the following section shall be substituted, namely:—

"**5. Interest payable on debts and rents.**

(1) (a) For determining the amount of a debt other than a debt due to a banking company as defined in the Banking Companies Act, 1949, for the purpose of payment under this Act, notwithstanding anything contained in any law, contract or decree or order of court,—

(i) interest shall be calculated at the rate applicable to the debt under the law, custom, contract or decree or order of court under which it arises or at five per cent per annum simple interest, whichever is less, and credit shall be given for all sums paid or credited towards interest and only such amount as is found outstanding, if any, as interest thus calculated, shall be deemed payable together with the principal amount or such portion of it as is due; and

(ii) notwithstanding anything in clause (i) not more than one-half of the principal shall be deemed payable or to have been payable towards interest which accrued due till the commencement of this Act.

If the amount paid or credited towards interest exceeds the amount payable under clause (i) or clause (ii) such excess shall be credited towards the principal and the balance, if any, and future interest alone shall be recoverable.

(b) For determining the amount of a debt due to a banking company as defined in the Banking Companies Act, 1949, for the purpose of payment under

this Act, notwithstanding anything contained in any law, contract or decree or order of court,—

(i) interest shall be calculated at the rate applicable to the debt under the law, contract or decree or order of court under which it arises or at five per cent per annum simple interest, whichever is less, up to the date of publication in the Gazette of the Kerala Agriculturists Debt Relief (Amendment) Act, 1960, and at the rate applicable to the debt under the law, contract or decree or order of court under which it arises or at seven per cent per annum simple interest, whichever is less, with effect on and from the date of the Publication in the Gazette of the said Act; but nothing in this clause shall be deemed to require a re-appropriation of interest already paid and credited before the said date of publication;

(ii) not more than one-half of the principal shall be payable towards interest which accrued due till the commencement of this Act.

(2) Notwithstanding anything to the contrary in any law, custom or contract or any decree or order of court, interest on arrears of rent or michavaram in respect of lands or buildings shall not be chargeable at a rate higher than five per cent per annum simple interest. Where any person has collected interest at a rate higher than that specified above, the excess shall be credited towards future rent or michavaram:

Provided that nothing contained in sub-section (1) or sub-section (2) shall be deemed to require the creditor or the landlord to refund any sum which has been paid to or recovered by him.".

6. Amendment of section 6, Act 31 of 1958.

In section 6 of the principal Act,—

(1) in sub-section (1), for the words and figure "recalculated under section 4", the words and figure "recalculated under section 5" shall be substituted;

(2) in sub-section (2), for the words "The provisions of section 4 shall, for purposes of execution, be deemed to be a subsequent order of court", the words "An order passed under the provisions of section 4 shall be deemed to be a subsequent order of court"shall be substituted.

7. Amendment of section 8, Act 31 of 1958.

In section 8 of the principal Act,—

(1) in sub-section (2), for the words "to the court which passed the decree" the words, "to the court which passed the decree or to the court to which the decree has been sent for execution" shall be substituted;

(2) sub-section (6) shall be omitted.

8. Amendment of section 9, Act 31 of 1958.

In section 9 of the principal Act,—

(i) sub-section (2) shall be omitted;

(ii) in sub-section (3),—

(a) for the words "five per cent per annum", the words and figure "the rate specified in section 5" shall be substituted;

(b) for the last sentence begining with the words "The amount if any" and ending with the words "shall be reconveyed to the agriculturist debtor" the following shall be substituted, namely :—

"The amount, if any, outstanding after such appropriation together with the value of improvements, if any, effected by the creditor shall be paid in accordance with the provisions of sub-sections (2), (3) and (5) of section 11, as if the transaction were a usufructory mortgage and the rights of the creditor and the debtor shall be governed, as far as may be, by the provisions of the said sub-sections.";

(iii) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) For applications under sub-section (1) court fees shall be paid as if they were suits for the same reliefs".

9. Amendment of section 10, Act 31 of 1958.

In section 10 of the principal Act, for the words, brackets and figures "sub section (2) of section 4", wherever they occur, the words brackets and figures "sub-sections (2) and (3) of section 4" shall be substituted.

10. Amendment of section 11, Act 31 of 1958.

In section 11 of the principal Act,—

(1) in sub-section (2),—

(i) for the words "shall be entitled", the words "shall, on application, be entitled" shall be substituted ;

(ii) for the words, figure and brackets "subject to the provisions of sub-section (3)", the words, figures and brackets "subject to the provisions of sub-sections (3) and (4)" shall be substituted ;

(2) in sub-section (3) —

(i) for the words "with the deposit", the words "with the application" shall be substituted ;

(ii) after the words 'court shall' the following words shall be inserted, namely:—

"put the mortgagor in possession of the property and";

(iii) for the words "pass a decree", the words "pass an order" shall be substituted; and

(iv) the following shall be added at the end, namely :—

"and an order passed under this sub-section shall be deemed to be a decree";

(3) in sub-section (4), for the words "the lease shall stand terminated", the words and figures "the lease shall, except in the case of tenants to whom the provisions of section 43 of the Malabar Tenancy Act, 1929, apply stand terminated" shall be substituted.

11. Insertion of new section 11A in Act 31 of 1958.

After section 11 of the principal Act, the following section shall be inserted namely :—

"11A Special provisions regarding certain melpattoms.

(1) This section applies to all subsisting melpattoms granted by an agriculturist before the commencement of this Act for periods of two years or more.

(2) Notwithstanding that the period of the melpattom has not expired, the person who granted the melpattom shall, on application, be entitled to terminate the melpattom on depositing into court one-third of the advance outstanding.

Explanation.—For the purpose of this sub-section "advance outstanding" means an amount which bears to the total amount of the advance the same proportion as the unexpired term of the melpattom bears to its full term.

(3) If there is dispute regarding the amount of the advance outstanding, the court may provisionally determine the amount after such summary enquiry as it deems fit and direct the deposit of the deficit, if any. On such deposit, the rights of the melpattomdar to collect the usufructs shall cease and the person who granted the melpattom shall be entitled to take the usufructs.

(4) As soon as may be after the provisional determination of the amount, the court shall, after due enquiry, finally determine the amount and pass orders—

(i) for the deposit of the deficit or the adjustment or refund of the excess, if any, as the case may be; and

(ii) directing the person who granted the melpattom to deposit the balance amount, if any, in ten equal half-yearly instalments together with interest which accured due on such balance outstanding till the date of payment of each instalment at 5 per cent per annum, simple interest, the first instalment being payable within a period of six months from the date of the first deposit or the date of the provisional determination of the amount of advance under sub-section (2) or sub-section (3) as the case may be.

(5) The melpattomdar shall have a charge on the land, the usufructs from which formed the subject of the melpattom, for the amount due, and such charge shall have priority over all other charges created after the date of the melpattom.

(6) Court fees on the amount outstanding after the deposit under sub-section (2) shall be paid by the applicant before the recording of evidence or, where no such evidence is recorded before the final determination under sub-section (4).

(7) An order passed under sub-section (4) shall also direct the sale of the land on which charge has been created under sub-section (5) for realising any amount due, and such order shall be deemed to be a decree.".

12. Omission of section 13, Act 31 of 1958.

Section 13 of the principal Act shall be omitted.

13. Amendment of section 16, Act 31 of 1958.

In section 16 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) During the pendency of an application under section 15, the court may stay any suit or the execution of any decree against the applicant or his properties.".

14. Amendment of section 20, Act 31 of 1958.

Section 20 of the principal Act, shall be re-numbered as Sub-section (1) of that section, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) The provisions of section 5 of the Indian Limitation Act, 1908 shall be applicable to all applications and appeals filed under this Act.".

15. Amendment of Section 22, Act 31 of 1958.

In section 22 of the principal Act,—

(1) in sub-section (1),—

(i) for the words and figures beginning with the words "where any immovable property" and ending with the words "in liquidation", the following shall be substituted, namely :—

"Where any immoveable property in which an agriculturist had an interest has been foreclosed or sold in execution of any decree for the recovery of a debt or arrears of rent or michavaram or sold under the provisions of the Revenue Recovery Act for the time being in force for the recovery of a debt due to a banking company in liquidation as defined in the Banking Companies Act, 1949";

(ii) in sub-section (1) (a), after the words "and apply to the court within", for the words "six months" the words 'one year' shall be substituted.

(iii) after the third proviso, the following proviso shall be inserted, namely :—

"Provided also that in the case of a sale in execution of a decree for the realisation of arrears of rent or michavaram the application under this sub-section for setting aside the sale may be made at any time within one year from the commencement of this Act".

(2) In sub-section (3), the word "Where" occurring in the beginning and the words "a petition for setting aside the sale is pending in any court at the commencement of this Act" shall be omitted.

(3) in the Explanation, the following shall be added at the end, namely :—

"and a person from whom the entire amount due under a decree has been realised by the sale of his immovable property.".

16. Insertion of new section 23A in Act 31 of 1958.

After section 23 of the principal Act, the following section shall be inserted, namely :—

"23A. **Appeals.**

An appeal shall lie against any order passed under sub-section (1) of section 8, sub-section (1) or sub-section (3) of section 9 and sections 12, 18, 22 and 23 to the court to which appeals ordinarily lie from the decisions of the court passing the order and the order passed in appeal shall be final :

Provided that where the order is passed by a Revenue Court the appeal shall lie to the District Court within whose jurisdiction the Revenue Court is situate and such appeal shall be filed within sixty days of the date of the order appealed against.".

17. Amendment of section 26, Act 31 of 1958.

Section 26 of the principal Act shall be renumbered as sub-section (1) of that section, and—

(i) in sub-section (1) as so renumbered, after the words and figures "the Travancore-Cochin Indebted Agriculturists Relief Act, 1956", the following words, figures and brackets shall be inserted, namely ;—

"and the Travancore Debt Relief Act, 1115 (Act II of 1116)" ;

(ii) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Notwithstanding such repeal, any liability to which the provisions of the enactments repealed under sub-section (1) applied and for which an application is pending before a court of law or an order was passed for payment in instalments by a court of law or was partly discharged before the commencement of this Act, may at the option of the debtor be discharged in accordance with the provisions of those enactments, and for that purpose the said enactments shall be deemed to continue in force."

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