

ORISSA ACT XIX OF 1947

THE MADRAS ESTATES LAND (ORISSA AMENDMENT) ACT, 1947

[Received the assent of the Governor-General on the 17th June 1947, first published in an extraordinary issue of the Orissa Gazette, dated the 25th June 1947]

AN ACT FURTHER TO AMEND THE MADRAS ESTATES LAND ACT, 1908, IN ITS APPLICATION TO THE PROVINCE OF ORISSA

WHEREAS it is expedient further to amend the Madras Estates Land Act, 1908, in its application to the Province of Orissa for the purposes hereinafter appearing ; Madras Act I of 1908.

It is hereby enacted as follows :—

Short title and commencement

1. (1) This Act may be called the Madras Estates Land (Orissa Amendment) Act, 1947.

(2) It shall come into force at once.*

Amendment of section 25, Madras Act I of 1908.

2. To the first paragraph of section 25 of the Madras Estates Land Act, 1908 (hereinafter referred to as the said Act), the following proviso shall be added namely :— Madras Act I of 1908.

“Provided that in ascertaining the prevailing rate or the fair and equitable rate, as the case may be, regard shall be had to the provisions of this Act governing the settlement of rent”.

Amendment of section 28, Madras Act I of 1908

3. In section 28 of the said Act after the words “proceedings under this Act” the following words shall be inserted, namely :—

“except any proceedings under section 40, or under Chapter XI.”

Amendment of section 40, Madras Act I of 1908

4. For sub-section (3) of section 40 of the said Act the following sub-section shall be substituted, namely :—

“(3) In making the determination the Collector shall have due regard to the following considerations :—

(a) The average value of the rent actually accrued due to the landholder during the ten years preceding the date of the application other than the years which the Provincial Government may notify to be or to have been either famine years or abnormal years in respect of any local area, or if the value for such period cannot be ascertained, during any shorter period for which evidence may be available excluding the famine and abnormal years ;

(b) the money rent payable by ryots for lands of similar description and with similar advantages in the same village or neighbouring villages where settlement of fair and equitable rent was made under the provisions of section 168 as amended by the Madras Estates Land (Orissa Amendment) Act, 1947, or section 168-A ;

*Extended to the partially-excluded areas of Ganjam and Koraput by notification No. 4722-R., dated the 25th June 1947 (Vide *Orissa Gazette*, dated the 25th June 1947, Extraordinary issue).

(c) improvements affected by the landholder or the ryots in respect of the holding and the provisions laid down in section 32 ; and

(d) such instructions as may be prescribed in the rules framed under the Act."

Amendment
of section
168, Madras
Act I of
1908.

5. To sub-section (2) of section 168 of the said Act the following proviso shall be added, namely :—

"Provided that no rent or rate of rent shall be deemed to be fair and equitable which has been determined on the basis of half the gross produce or any proportion of the gross produce regardless of the expenses incurred in growing and gathering the crops."

Insertion
of section
168-A,
Madras Act
I of 1908.

6. After section 168 the following section shall be inserted, namely :—

"168-A. (1) Notwithstanding anything contained in this Act the Provincial Government may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare or that the rates of rent payable in money or in kind whether commuted settled or otherwise fixed are unfair or inequitable, invest Collector with the following powers :—

(a) power to settle fair and equitable rents in cash ;

(b) power, when settling rents to reduce rents if in the opinion of the Collector the continuance of the existing rents would on any ground, whether specified in this Act or not, be unfair and inequitable.

(2) The power given under this section may be made exercisable within specified areas either generally or with reference to specified case or class of cases."

Amendment
of section
169, Madras
Act I of
1908.

7. In sub-section (1) of section 169 of the said Act after the word and figures "section 168" the following words, figures and letter shall be inserted, namely :—

"or section 168-A."

Amendment
of section
172, Madras
Act I of
1908.

8. In section 172 of the said act after the word and figures "section 168" the following words, figures and letter shall be inserted, namely :—

"or section 168-A."

Amendment
of section
177, Madras
Act I of
1908.

9. Section 177 of the said Act shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-sections shall be added, namely :—

"(2) (a) Notwithstanding anything in sub-section (1) where rent is settled under the provisions of section 168-A the Provincial Government may either retrospectively or prospectively prescribe the date on which such settlement shall take effect. In giving retrospective effect the Provincial Government may, at their discretion, direct that the rent so settled shall take effect from a date prior to the commencement of the Madras Estates Land (Orissa Amendment) Act, 1947.

(b) If the Provincial Government give retrospective effect as provided in clause (a) of this sub-section and if it is found that the rent actually paid by a ryot from the date on which the retrospective effect of the notification of the Provincial Government commences, is in excess of the rent as settled under the provisions of section 168-A, such excess payment shall, at the option of the ryot, be—

(i) adjusted towards payment of future rent as so settled, or

(ii) recoverable from the landholder by a suit before the Collector.

(3) Nothing in sub-section (1) shall be deemed to affect the powers of the Provincial Government to direct settlement of rent under section 168-A, at any date within the period of twenty years specified in that sub-section."

Amendment of section 178, Madras Act I of 1908. 10. In section 178 of the said Act after the word and figures "section 168" the following words, figures and letter shall be inserted, namely:—
"or section 168-A."

Amendment of section 215, Madras Act I of 1908.

11. In section 215 of the said Act—

(a) at the end of clause (8) the following words shall be added, namely:—

"and also for prescribing the principles to be followed by the Collector in settling rent";

(b) in clause (9) the word "and" shall be omitted;

(c) at the end of clause (10) after the words "under this Act" the word "and" shall be inserted; and

(d) after clause (10) the following clause shall be inserted, namely:—

"(11) prescribing the instructions for the guidance of officers for commutations of rent."

Amendment of Schedule, Madras Act I of 1908.

12. In Part A of the Schedule to the said Act after serial number 12 serial number "12-A" shall be inserted and against the said serial number the following entries shall be made in columns 2, 3, 4, 5 and 6, namely:—

	2	3	4	5	6
177 (2) (b)	for a suit for recovery of excess payment of rent.		Two years	The date of the notification of the Provincial Government giving retrospective effect.	District Court."