

THE ORISSA AGRICULTURE ACT, 1952

TABLE OF CONTENTS

CHAPTER I

PRELIMINARY

PREAMBLE

CLAUSES

1. Short title, extent and commencement
2. Definitions

CHAPTER II

CONSTITUTION AND FUNCTIONS OF THE STATUTORY BODIES CONSTITUTED UNDER THE ACT

3. Constitution of a Board
4. Functions of the Board
5. Executive power vested in the Commissioner of Agriculture
6. Annual report of the Board
7. Constitution of District Committee
8. Krushi Samiti
9. Constitution of the Tribunal

CHAPTER III

ENFORCEMENT OF PRINCIPLES OF GOOD ESTATE MANAGEMENT

10. Good estate management
11. Direction to proprietors
12. Improvement
13. Supervision by the Board
14. Dispossession of a proprietor and management by the Committee
15. Persons aggrieved to file objection
16. Execution of direction and recovery of cost
17. Appeals
18. Penalty to be paid by the proprietor for non-compliance with the direction
19. Any subsequent disposition not to affect the validity of an order of supervision or management.
20. Malikana

CHAPTER IV

ENFORCEMENT OF PRINCIPLES OF GOOD HUSBAN DRY

21. Good husbandry
22. Direction to tenants
23. Circumstances under which a holding can be made over
24. Power to take possession
25. Payment to dispossessed tenant
26. Tenants not to have rights during continuance of dispossession
27. Terms and conditions for the new tenant
28. Penalty to be paid by the tenant for non-compliance with the direction
29. Recovery of cost
30. Power of the Board to advance loans

CHAPTER V

SANCTION AND EXECUTION OF IMPROVEMENT SCHEMES

31. Preparation of an improvement scheme
32. By whom the scheme shall be prepared
33. Sanction of the scheme
34. Execution of scheme
35. Submission of Annual Report
36. Filing of objection and appeal
37. Recovery of cost
38. Apportionment of cost or levy of cess

CHAPTER VI

CONSOLIDATION AND PREVENTION OF FRAGMENTATION OF HOLDINGS

39. Consolidation and prevention of fragmentation of holdings
40. Fragments
41. Penalty for transfer or partition of any land
42. Bar to fragmentation
43. Scheme of consolidation
44. Payment and recovery of compensation
45. Realignment of road, street, lane or path
46. Publication of the draft scheme
47. Execution of the scheme
48. Bar to possession for non-payment of compensation
49. Re-allotment
50. Scheme to come into operation
51. Transfer by exchange or otherwise not to be affected

52. Granting of certificate
53. Grant of loan
54. The functions of the Consolidation Officer for consolidation proceedings
55. Rights in respect of allotment
56. Encumbrances of tenants in respect of their holdings
57. Determination of compensation
58. Subdivisions of the holdings
59. Rectification of the scheme
60. Power of the Board to call for and examine records.

CHAPTER VII

AGRICULTURAL IMPROVEMENT FUND

61. Agricultural Improvement Fund
62. Contribution to the Fund
63. Purposes to which the Fund shall be applicable
64. Administration of the Fund

CHAPTER VIII

MISCELLANEOUS PROVISIONS

65. Recovery of sums due under the Act
66. Power to enter upon, survey and demarcate
67. Enquiries
68. Public Servants
69. Protection of action taken under the Act
70. Improvement work to be put in charge of agents or beneficiaries
71. Requisition of land
72. Delegation of powers
73. Constitution of an appeal sub-committee
74. Other powers of the Board
75. Powers to make rules
76. Power of the Board to make regulations

ORISSA ACT XVI OF 1952
THE ORISSA AGRICULTURE ACT, 1951

*[Received the assent of the President on the 18th August 1952 first
 published in an extraordinary issue of the Orissa Gazette,
 dated the 2nd September 1952]*

AN ACT TO PROVIDE FOR DEVELOPMENT OF AGRICULTURE,
 ANIMAL HUSBANDRY AND GOOD ESTATE MANAGE-
 MENT AND FOR CONSOLIDATION AND PREVENTION
 OF FRAGMENTATION OF AGRICULTURAL HOLD-
 INGS IN THE STATE OF ORISSA

WHEREAS it is expedient to provide for development of agriculture, animal husbandry and good estate management and for consolidation and prevention of fragmentation of agricultural holdings in the State of Orissa ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

- Short title, extent and commencement.** 1. (a) This Act may be called the Orissa Agriculture Act, 1951.
 (b) It extends to the whole of the State of Orissa.
 *(c) It shall come into force in such area or areas and on such date or dates as the State Government may, by notification, appoint.
- Definitions** 2. In this Act, unless there is anything repugnant in the subject or context,—
- (a) "Agriculture" means use of land and water for collection, production, and processing of food, fodder, fibre, fuel and raw materials of industry and includes horticulture, arboriculture, pisciculture, bee-keeping, dairy farming, breeding and keeping of livestock, and use of land as pasture and for forest where such use is ancillary to agriculture ; and "agricultural" shall be construed accordingly ;
- (b) "Board" means the Board of Agriculture, Orissa constituted by the State Government under section 3 ;
- (c) "Collector" means the Collector of a district and includes any other officer who is specially empowered by the State Government to discharge any of the functions of the Collector under this Act ;
- (d) "Committee" means the District Agricultural Executive Committee of the district concerned ;
- (e) "Commissioner of Agriculture" means a member of the Board of Revenue appointed as the Commissioner of Agriculture, Orissa, by a notification of the State Government ;

*Substituted by the Orissa Agriculture (Amendment) Act, 1952 (Orissa Act XXI of 1952).

(f) "Estate" means an estate as defined in the Orissa Tenancy Act, 1913, the Madras Estates Land Act, 1908 or any other Tenancy Law for the time being in force in the State and includes also the interests of all proprietors under this Act ;

B. & O. Act
II of 1913.
Madras Act
I of 1908.

(g) "Functions" includes powers and duties ;

(h) "Proprietor" includes every landlord, zamindar, sub-proprietor, tenure-holder, Khorposdar, Muthadar, Gauntia, Thikadar, putta-holder or any other landholder or raiyat having tenants under him and their mortgagee or assignee in possession ;

Explanation—The Government Departments, a Local body or a Railway holding land shall be deemed to be a proprietor for the purposes of this Act in respect of—

(i) land acquired under the Land Acquisition Act, 1894, Act I of 1894. for any Government Department, any Local body or authority or a Railway while such land remains the property of the Government, Local body or authority or Railway, and

(ii) land recorded or demarcated as belonging to Government or to any Local body or authority which is used for any public work while such land continues to be so used or required.

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

(j) "Tenant" includes occupancy raiyat, non-occupancy raiyat, or any other person in cultivating possession of land or actually cultivating land for himself or for others, including their mortgagee or assignee in possession, but does not include hired labourers ;

Explanation—A proprietor or a ruler of merged territories when in cultivating possession shall be deemed to be a tenant for the purpose of this Act in respect of his home farm and private lands.

(k) "Tribunal" means the District Agricultural Land Tribunal set up for the district concerned.

CHAPTER II

CONSTITUTION AND FUNCTIONS OF THE STATUTORY BODIES CONSTITUTED UNDER THE ACT

Constitution of a Board. 3. (1) The State Government shall constitute a Board of Agriculture and it shall consist of —

(a) the Minister in charge of the Department of Agriculture—*Chairman, ex officio,*

(b) the Commissioner of Agriculture, Orissa—*Member,*

(c) seven persons holding office under the State Government representing Agriculture, Veterinary, Fisheries, Forestry, Co-operation, Revenue, Irrigation, Electricity and River Valley Development Departments to be nominated by the State Government—*Members,*

(d) four members of the Orissa Legislative Assembly elected by the said Assembly—*Members*,

(e) four persons who do not hold office under the Government to be nominated by the State Government—*Members*.

(2) The term of office of members of the Board shall extend to a period of three years and shall include any period which may elapse between the expiration of the said period of three years and the constitution of the new Board :

Provided that a non-official member shall be eligible for appointment for not more than three consecutive terms.

(3) On a vacancy occurring by the death, resignation or removal of a non-official member, it may be filled up till the expiry of the period of three years by nomination by the State Government. A member may be removed if he without the leave of the Board fails to attend three consecutive meetings of the Board.

(4) The State Government may at any time replace one official member by another official member.

(5) The Board shall be a body corporate by the name of "Board of Agriculture, Orissa" with perpetual succession and a common seal.

Functions of the Board. 4. (1) It shall be the duty of the Board to carry out the functions provided under this Act.

(2) Without prejudice to the generality of the foregoing functions, the powers and the duties of the Board shall extend to any of the following matters, namely :—

(i) enforcement of rules of good estate management and good husbandry,

(ii) conservation and use of soil and water,

(iii) conservation and use of trees whether selfgrown or planted,

(iv) consolidation of holdings and prevention of fragmentation,

(v) co-operative farming and joint-farming,

(vi) control and prevention of weeds, pests and diseases attacking crops and animals,

(vii) use of seeds, manures and fertilisers,

(viii) construction, maintenance, repair and improvement of irrigation works, drainage works, embankments and such other protective works,

(ix) control and regulation of natural waterways and drainage and beneficial control of water,

(x) supply of land, water, labour, cattle, implements and machinery, and control and restriction of their use for certain purposes,

- (xi) agricultural finance,
- (xii) marketing of agricultural produce,
- (xiii) agricultural statistics, and
- (xiv) initiation, control and supervision over Committees and Krushi Samities.

Executive power vested in the Commissioner of Agriculture.

5. The executive power of the Board shall vest in the Commissioner of Agriculture, Orissa, who shall be the Chief Executive Officer of the Board.

Annual report of the Board.

6. The Board shall as respects each financial year prepare and submit to the State Government an annual report on the discharge of the functions of the Board and accounts showing the result of the discharge of the said functions in such form and on such date as may be prescribed.

Constitution of District Committee.

7. (1) The State Government shall constitute for each district a District Agricultural Executive Committee which shall function as the executive agency for carrying out the purposes of Chapters III, IV, V and VI of this Act.

(2) Each Committee shall consist of not less than twenty members of whom the Collector of the district shall be the Chairman *ex officio*. The members other than the Collector of the district shall be nominated by the State Government of whom not more than one-third shall be Government servants and the rest shall be non-officials representing proprietors tenants and agricultural workers of the district.

(3) The term of office of the non-official members of the Committee shall extend to a period of three years and shall include any period which may elapse between the expiration of the said period of three years and the constitution of the new Committee :

Provided that a non-official member shall be eligible for appointment for not more than three consecutive terms.

(4) On a vacancy occurring by the death, resignation or removal of a non-official member it may be filled up till the expiry of the period of three years by nomination by the State Government. A member may be removed if he without leave of the Committee fails to attend three consecutive meetings of the Committee.

(5) The State Government may at any time replace one official member by another official member.

(6) The State Government shall appoint a Gazetted Government servant from among the members of the Committee to be the Executive Officer of the Committee and the said Officer shall exercise such powers of the Committee as may be prescribed.

(7) The Committee shall be competent to move the Board to take any action to carry out the provisions of the Act and shall comply with any directions issued by the Board from time to time.

Krushi
Samati.

8. (1) There shall be a Krushi Samiti for any defined area like a Thana or Taluk, consisting of not less than seven and not more than ten members representing proprietors, tenants and agricultural workers of the area. These Krushi Samities shall be the agencies through which the Committees shall ordinarily function. In areas where there are Krushi Samities the Committees shall consult the Krushi Samiti concerned before taking any action under Chapters III, IV and VI. The constitution and functions of the Krushi Samities shall be such as may be prescribed.

(2) The term of office of members of the Samiti shall extend to a period of three years and shall include any period which may elapse between the expiration of the said period of three years and the constitution of the new Committee :

Provided that a non-official member shall be eligible for appointment for not more than three consecutive terms.

(3) On a vacancy occurring by the death, resignation or removal of a non-official member it may be filled up till the expiry of the period of three years by nomination by the State Government. A member may be removed if he without leave of the Samiti fails to attend three consecutive meetings of the Samiti.

Constitu-
tion of the
Tribunal.

9. (1) The State Government shall constitute for each district a District Agricultural Land Tribunal which shall be charged with the duty of determining matters referred to it by the Board or the Committee.

(2) Except as otherwise prescribed the Tribunal shall have all the powers and privileges of a Judge of a Civil Court.

(3) Each Tribunal shall consist of three members as follows :—

(i) the District Judge or an Additional District Judge—
Chairman,

(ii) a senior officer of the Administrative Services serving in the district—*Member,* and

(iii) a non-official resident of the district—*Member.*

(4) The powers and duties of the Tribunal shall have reference to the following matters, namely :—

(a) determination of the cost to be recovered from the proprietor under section 16 or the cost from a tenant under section 29 ;

(b) determination of annual Malikana payable to a proprietor under section 20 or an annual payment to a tenant under section 25 ;

(c) adjudication of disputes arising about the cost of a scheme, apportionment of cost or the rate of annual fee, referred to under section 38 ;

(d) determination of compensation payable to the owner of a fragment under the proviso to section 41 ;

(e) disposal of appeals in respect of payment of compensation fixed by the Commissioner of Agriculture under section 46 ;

(f) determination of compensation on appeal payable to the lessee, mortgagee, creditor or other encumbrances, under section 57 ; and

(g) determination of compensation payable for the temporary dispossession under section 66.

(5) The decision of the Tribunal on any matter referred to in sub-section (4) shall be final and shall not be liable to be questioned in any Court of Law.

(6) The term of office of the members of the Tribunal shall extend to three years and the members shall be eligible for reappointment.

CHAPTER III

ENFORCEMENT OF PRINCIPLES OF GOOD ESTATE MANAGEMENT

Good estate
management.

10. (1) It shall be the duty of every proprietor to manage his estate in accordance with the principles of good estate management.

(2) For the purpose of this Act, a proprietor shall be deemed to fulfil his responsibilities to manage his estate in accordance with the principles of good estate management in so far as the management of his estate is such as to be reasonably adequate, having regard to the character and situation of the lands under his tenants and other relevant circumstances, to enable the tenants under him reasonably skilled in husbandry to maintain efficient production as respects both the kinds of produce and the quality and quantity thereof.

Direction to
proprietors.

11. (1) In any district in which a Committee has been constituted under section 7 such Committee with the approval of the Commissioner of Agriculture may by an order in writing issue a direction to any proprietor possessing any proprietary interest in land situated within the jurisdiction of the said Committee for the due observance of the principles of good estate management.

(2) Without prejudice to the generality of the foregoing provisions, the said direction may be in regard to any or all of the following matters—

(i) a regular and adequate supply at economic rates of water for irrigation, pisciculture, drinking and domestic purposes and for retting of fibre ;

(ii) sufficient pasture land for their cattle, goats and sheep ;

(iii) land for an infirmary for old and useless cattle ;

(iv) land for fuel and fodder reserves ;

(v) a regular and adequate supply of fuel, fencing materials, bamboos and timber at economic rates from the forests of the estate;

- (vi) drainage of water-logged land;
- (vii) protection from floods and saline inundation;
- (viii) protection of crops from wild animals and pests;
- (ix) provision of improved bulls;
- (x) protection of crops from bulls and other ownerless animals;
- (xi) provision of communications for movement of seeds, manures and agricultural produce;
- (xii) cultivation of such waste land as has not been reserved for pasture, fuel or forest;
- (xiii) reclamation of swamps and marshes either for cultivation or for pisciculture; and
- (xiv) supply of agricultural statistics and other information in prescribed forms.

(3) No direction under this section shall be issued which is not reasonable and which does not take into account the financial resources of the estate, due regard being had to the provisions of section 30.

(4) Every proprietor shall be bound to carry out any direction issued by the Committee.

Improve-
ment.

12. If at any time after the commencement of this Act a proprietor effects an improvement in respect of a matter specified in sub-section (2) of section 11, either under a direction given by the Committee or with the prior approval of the Commissioner of Agriculture, he shall be entitled to collect a levy from the persons benefited by the said improvement at such rate per acre as may be determined by the Committee and approved by the Board:

Provided that if the proprietor is bound to effect the said improvement under any Sanad, agreement, or engagement or under any tenancy law for the time being in force, he shall not be entitled to the levy herein provided.

Supervision
by the
Board.

13. (1) When the Committee is satisfied that any proprietor to whom a direction has been given under section 11 has failed to comply with such direction within the time specified in the order, it may require the proprietor by a further order in writing to place the estate under the supervision of the Board.

(2) When an estate is placed under supervision of the Board in pursuance of a requisition under sub-section (1), the Committee shall be competent to review the management of the estate from time to time and it may call upon the proprietor to give such facilities as may be necessary to enable any Gazetted Government servant duly authorised by the Committee to undertake such review.

(3) The proprietor of the estate which is placed under supervision shall be bound to carry out any direction given by the Committee in this behalf from time to time.

Dispossession of a
proprietor
and manage-
ment by the
Committee.

14. (1) If the Committee is satisfied, after the review provided under sub-section (2) of section 13 and after giving such further opportunities to the proprietor to comply with the direction of the Committee as it may deem necessary, that the

proprietor, whose estate has been placed under supervision under the said section, has contravened or failed to comply with the direction issued by the Committee, it may, by an order in writing duly served on the proprietor, dispossess him from the estate or part of an estate and take over its possession and management under its control. The said order shall specify the period for which the proprietor shall be dispossessed of his estate :

Provided that the Committee shall not dispossess the proprietor or take over the possession before the expiry of the period of limitation for filing appeals or pending the decision on appeal under section 17.

(2) When a proprietor is dispossessed under the foregoing provisions the Committee shall make arrangements for the management of his estate in the prescribed manner.

15. (1) Any person to whom a direction has been issued by the Committee or whose estate has been placed under supervision or who has been dispossessed under the foregoing provisions may file an objection before the Committee within thirty days of receipt of the order.

(2) The Committee shall thereupon hear the objection and pass such orders as it deems fit :

Provided that the Committee may at any time suspend, revise, modify or cancel any direction issued under section 11 or any order relating to supervision or management :

Provided further that the provisions of sections 13 to 15 shall not apply to proprietor mentioned in the Explanation to clause (h) of section 2.

16. (1) On the failure of the proprietor to comply with any direction under section 11 or section 13 it shall be competent for the Committee to order its execution by any person other than the proprietor without prejudice to other remedies and penalties imposed under the provisions of this Act.

(2) It shall further be competent for the Committee to recover the whole or a portion of the cost of execution of the direction from the proprietor or to apportion the cost among the proprietors if there be more than one. The Committee shall notify its decision to the proprietor in the prescribed manner. Any proprietor aggrieved by the decision of the Committee may, within 15 days of receipt of such notice, file an objection before the Committee. On receipt of such an objection, the Committee shall, within thirty days of the receipt of the objection, refer the matter to the Tribunal for determination either of the cost of execution of the direction or of apportionment of the cost among different proprietors or both, as the case may be.

17. Any person aggrieved by an order of the Committee under this Chapter may, within thirty days from the date on which such order or decision is given, prefer an appeal to the Board :

Provided that no appeal shall lie in regard to matters referred to in sub-section (4) of section 9.

Persons
aggrieved
to file
objection.

Execution
of direction
and recovery
of cost.

Appeals

Penalty to be paid by the proprietor for non-compliance with the direction.

18. (1) If any proprietor to whom a direction is given under this Chapter fails to comply with such direction within the time specified by the Committee or by the Appellate Authority in case where the proprietor prefers an appeal, he shall be liable to a penalty not exceeding two hundred rupees and such daily penalty not exceeding ten rupees of each subsequent day of non-compliance.

(2) The Chairman of the Committee by an order in writing may impose the penalty provided under sub-section (1) and such penalty shall be credited to the Fund constituted under section 61.

(3) An appeal shall lie to the Board against the order of the Chairman within thirty days from the date of the order :

Provided that any penalty imposed under this section shall not affect any other action that may be taken by the Committee under the provisions of this Act.

Any subsequent position not to affect the validity of an order of supervision or management.

Malikana

19. Where an order of supervision or management is in force in respect of any estate of a proprietor, any disposition of the land to which the order relates, whereby some other person becomes the proprietor of that estate, shall not, unless approved by the Committee, affect the continued operation of the order of supervision or management and such order shall continue to be in force in respect of the said estate.

20. (1) Any proprietor who is dispossessed of his estate under section 14 shall be entitled to such annual Malikana as may be decided by the Committee. The Committee shall notify its decision to the proprietor in the prescribed manner. Any proprietor aggrieved by the decision of the Committee may, within fifteen days of receipt of such notice, file an objection before the Committee. On receipt of such an objection, the Committee shall within thirty days of the receipt of the objection refer the question of payment of Malikana to the Tribunal for determination :

Provided that if there be more than one proprietor, the Malikana shall be divided amongst the co-sharers in proportion to their interest in the estate.

(2) The annual Malikana so fixed shall not be less than five per cent of the average of the gross income of the estate during the preceding three years.

(3) In fixing the Malikana the Committee or the Tribunal, as the case may be, shall assess the average annual net income of the proprietor from the estate during the preceding three years having regard to the normal items of income and deduct from the net income the land revenue, cesses, taxes and other charges on the estate on account of mortgages and other encumbrances and also charges relating to any legal liabilities of the estate. The expenditure which the proprietor was bound to incur to fulfil his responsibilities under this Act and any other expenditure which the Committee incurs in respect of the estate either for its supervision, management or improvement shall also be deducted from the net income to arrive at the Malikana payable to the dispossessed proprietors :

Provided that all recoveries in respect of the estate shall be completed before restoring the estate to the proprietor.

(4) Malikana shall be paid either in cash or in kind or partly in cash or partly in kind annually during the period of dispossession.

(5) The Committee shall furnish to the proprietor annually on the prescribed date a statement of the income and expenditure of the estate in respect of the preceding year.

CHAPTER IV

ENFORCEMENT OF PRINCIPLES OF GOOD HUSBANDRY

21. (1) It shall be the duty of every tenant to farm his agricultural holdings in accordance with the principles of good husbandry.

(2) For the purpose of this Act, a tenant shall be deemed to fulfil his responsibilities to farm his agricultural holdings in accordance with the principles of good husbandry in so far as the extent to which and the manner in which the holding is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) is such that, having regard to the character and situation of the holding and the standard of management thereof by the proprietor and other relevant circumstances, the tenant is maintaining a reasonable standard of efficient production as respects both the kind of produce and the quality and quantity thereof while keeping the holding in a condition to enable such a standard to be maintained in the future.

22. (1) It shall be competent for the following authorities to issue directions by an order in writing to any tenant for the due observance of the principles of good husbandry :—

(a) The Committee in consultation with the Krushi Samiti,

(b) A Krushi Samiti with the approval of the Committee, and

(c) Any officer duly authorised by the Committee.

(2) Without prejudice to the generality of the foregoing power, the said direction shall take into consideration the financial capacity of the tenant and other relevant circumstances relating to his tenure and may include the following matters :—

(i) improvement in the agricultural practice followed by the tenant; prevention of wasteful cultivation including shifting cultivation;

(ii) use of improved seeds, implements and manures

(iii) protection of crops from cattle and wild animals;

(iv) utilisation of farm yard wastes, household refuse, forest litter, and night-soil as manure;

(v) crop planning;

(vi) control of weeds, diseases and pests affecting crops and animals;

(vii) prevention of fragmentation of holdings;

(viii) reclamation of waste lands;

(ix) conservation and planting of trees for supply of food fuel or fodder;

(x) maintenance and repair of irrigation sources and drainage works;

(prevention of use of cow-dung as fuel;

(xii) co-operation with other tenants of the area for the purpose of procurement of seeds, implements, machinery, fertilisers, insecticides, for joint or co-operative farming or for marketing of farm products ;

(xiii) soil conservation and prevention of soil erosion ;

(xiv) reclamation of swamps and ponds for improvement of pisciculture ;

(xv) care and maintenance of livestock ; and

(xvi) provision of tanks for retting.

(3) Every tenant shall be bound to carry out any direction issued by an authority under sub-section (1) or (2). A direction issued under this section shall be specific and shall mention the period within which it shall be carried out. There after non-compliance shall be liable to be penalised.

(4) Any person aggrieved by an order under this section may file an objection before the Committee within fifteen days of the date of receipt of the order. The Committee shall hear the objection and record its decision in writing.

Circumstances under which a holding can be made over.

23. If a tenant to whom any direction has been issued under section 22 is unable to carry it out, he may, make over the holding, in respect of which a direction has been issued, to the authority issuing the direction, or join a Registered Co-operative Farming Society if formed and in operation in the area where he has his holding under such terms and conditions as may be mutually agreed upon.

Power to take possession.

24. (1) If a tenant fails to comply with the direction issued to him under the foregoing provisions within such time as may be specified in the order of direction, the Committee may by an order duly served on the tenant, if he does not voluntarily make over the holding as provided under section 23 temporarily dispossess the tenant from his holding and take over possession and farm it either directly or through another tenant or through a Registered Co-operative Farming Society.

(2) Any person aggrieved by an order of the Committee under the foregoing provisions may, within thirty days from the date on which such order or decision is given, prefer an appeal to the Board.

Payment to dispossessed tenant.

25. (1) The tenant who is dispossessed under section 24 shall be entitled to such annual payments as may be decided by the Committee. In determining the payment, the Committee shall take into consideration the average net income of the holding during the preceding three years :

Provided that the annual payment shall not be less than five per cent of the prevailing market value or five times the rental of the holding, whichever is less.

(2) The Committee shall notify its decision to the tenant in the prescribed manner. Any tenant aggrieved by the decision of the Committee may within fifteen days of receipt of such notice file an objection before the Committee. On receipt of such an objection the Committee shall within thirty days of the receipt of the objection refer the matter to the Tribunal for determination of the annual payment.

Tenants not to have rights during continuance of dispossession

Terms and conditions for the new tenant.

Penalty to be paid by the tenant for non-compliance with the direction.

Recovery of cost.

26. The order of dispossession shall remain in force for a period not exceeding five years during which period the tenant shall have no right in respect of the land notwithstanding anything contained in the tenancy laws for the time being in force in the area but he shall be liable to pay any arrears of rent or other arrear dues in respect of the holding. Such liability of the tenant shall also attach to any transferee of such land.

27. (1) Notwithstanding anything contained in any other law for the time being in force when a tenant is dispossessed under section 24 the rights of the tenant in respect of the holding and the obligation to pay rent to the landlord shall vest in the Committee who shall be entitled to make any arrangements which it deems fit and proper for the cultivation of the land during the said period.

(2) Notwithstanding anything which may be contained in any tenancy law for the time being in force no occupancy right in the holding shall accrue to any person put in possession of any land under this Act.

28. (1) If any tenant to whom a direction is given under this Chapter fails to comply with such direction within the time specified by the Committee or by the Appellate Authority in case the tenant prefers an appeal, he shall be liable to a penalty not exceeding one hundred rupees and to such daily penalty not exceeding five rupees for each subsequent day of non-compliance.

(2) The Chairman of the Committee may by an order in writing impose the penalty provided under sub-section (1) and such penalty shall be credited to the Fund constituted under section 61.

(3) An appeal shall lie to the Board against the order of the Chairman within thirty days from the date of the order :

Provided that any penalty imposed under this section shall not affect any other action that may be taken by the Committee under the provisions of this Act.

29. (1) When a tenant fails to carry out any direction issued by the Committee or makes over the holding under section 23 or is dispossessed under section 24, the Committee shall have the direction executed and shall be competent to recover the whole or part of the cost of any work carried out in accordance with the directions issued under sub-section (2) of section 22 from the said tenant. The cost of the work carried out or the portion thereof which is to be recovered from the tenant shall be determined by the Committee and notified to the tenant in the prescribed manner. Any tenant aggrieved by the decision of the Committee may, within fifteen days of the receipt of such notice, file an objection before the Committee. On receipt of such an objection the Committee shall, within thirty days of the receipt of the objection, refer the matter to the Tribunal for determining the cost of the work carried out.

(2) The Committee shall notify to the tenant on the prescribed date an annual statement of the expenses and receipts for the preceding year in respect of the holding taken possession of.

(3) No cost of any work shall be recovered from such tenant unless such work is of the nature of any permanent improvement and the benefit whereof shall accrue to him after the holding or the part of the holding to which the improvement relates is restored to him.

(4) Such recovery shall be made only at the time of restoration of the holding in one or more instalments as may be considered reasonable.

(5) In effecting recovery any profits made in respect of the holding which have not already been paid to the tenant shall be adjusted.

Power of the Board to advance loans. 30. The Board may, on application by a proprietor or tenant for advancement of loans for the purpose of carrying out the direction under Chapters III and IV and on being satisfied that such proprietor or tenant has no sufficient means to carry out such directions, advance such loans as it may deem necessary and reasonable.

CHAPTER V

SANCTION AND EXECUTION OF IMPROVEMENT SCHEMES

Preparation of an improvement scheme. 31. The Board may, by notification, direct that an improvement scheme including protective, preventive scheme and schemes for co-operative village management shall be prepared for any area whether comprised in one district or more than one district to carry out all or any of the purposes of this Act :

Provided that where the State Government so notifies in the Gazette in respect of any emergency scheme, the provisions of this section and section 32 shall not apply.

By whom the scheme shall be prepared. 32. Such scheme shall be prepared by the Committees, Krushi Samiti or authority specified in the notification under section 31 and shall contain such details as may be provided by the Board under rules made in this behalf.

Sanction of the scheme. 33. The Board may sanction the improvement scheme so prepared for any area in consultation with the Committee with or without modification and notify it accordingly in the Gazette.

Execution of scheme. 34. (1) When a scheme has been sanctioned by the Board it shall also determine the agency through which and the manner in which it shall be executed.

(2) Such scheme so sanctioned shall be executed under the supervision of a Committee authorised by the Board. The agency executing the scheme may be given such financial or other aid as may be necessary and in such manner as may be determined by the Board.

Submission of Annual Report. 35. The Board shall at the end of each financial year submit to the State Government an annual report giving full particulars of schemes sanctioned and executed or in progress during the year and the accounts in respect of the schemes.

Filing of objection and appeal. 36. (1) Any person who is affected by an improvement scheme may, within a month of the notification of the sanction of the scheme under section 33, file an objection before the Committee and an appeal shall lie against the decision of the Committee on such objection to the Board within one month from the date of such decision.

(2) Where in respect of an area a scheme has been sanctioned by the Board and the tenants holding three-fourths of agricultural land agree to the execution of the said scheme, it shall be competent to the Board to reject the appeal preferred by the rest of the tenants in that area under sub-section (1).

Recovery of cost.

37. The cost of the scheme or such portion of it, as may be determined by the Board, shall be recovered from the persons, benefited by the scheme, in one or more instalments and the Board may, in lieu of the realisation of the cost of the scheme, assess and levy a recurring annual fee in proportion to the benefits conferred under this scheme.

Apportionment of cost or levy of cess.

38. The Board shall decide the cost of a scheme and its apportionment among the several beneficiaries or determine the rate of annual fee equivalent to the cost of maintenance of a scheme of improvement to be levied from the beneficiaries and shall notify the decision in the prescribed manner. Any person aggrieved by the decision of the Board may file an objection before the Board, within fifteen days of such notification. Thereupon the Board shall, within thirty days of receipt of the objection, refer the matter to the Tribunal for decision which shall be final.

CHAPTER VI

CONSOLIDATION AND PREVENTION OF FRAGMENTATION OF HOLDINGS

Consolidation and prevention of fragmentation of holdings.

39. (1) Whenever it appears to the Board that the consolidation of agricultural holdings and prevention of fragmentations thereof in any local area comprised in a district for which a Committee or Krushi Samiti has been formed should be taken up, it may, with prior consultation with such Committee and Samiti, declare by a notification that such work of consolidation and prevention of fragmentation shall be taken up by the Commissioner of Agriculture.

(2) The notification issued under sub-section (1) shall specify approximately the minimum area of land below which it is considered unprofitable to cultivate land as a separate unit and call for any objection that may be preferred by tenants to the Commissioner of Agriculture within three months of the date of the notification :

Provided that Khalas, Baris, homestead-lands and orchards shall not be included in fixing such minimum area.

(3) Thereupon the said Commissioner shall hold enquiries and submit his report to the Board which shall finally decide and notify in the Gazette the minimum area that may be declared for such purpose.

(4) A copy of the notification under sub-section (3) shall be forwarded by the Board to the Committee and the Krushi Samiti concerned.

Fragments

40. (1) Upon the issue of the notification of such minimum area under section 39 all blocks of land in the local area which are less than the minimum area shall be entered as fragments in such village record as the Government may prescribe.

Explanation—Block of land shall mean a contiguous area of land in possession of one tenant in what ever right and whether shown in a cadastral map with one or more numbers.

(2) (a) Notwithstanding anything contained in any law for the time being in force, no person shall transfer any fragment so recorded unless thereby the fragment becomes merged in a contiguous block of land and no fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment :

Provided that the Committee may permit any sale or transfer by an order in writing.

(b) No land in the local area shall be transferred or partitioned so as to create a fragment.

Penalty
for transfer
or partition
of any land.

41. Transfer or partition of any land in contravention of the foregoing provisions shall be void and the person responsible for the transfer or partition shall be liable to a penalty not exceeding two hundred rupees which may be imposed by the Chairman of the Committee :

Provided that the owner of fragment may transfer it to the Board on receipt of such compensation as may be mutually agreed upon between the owner and the Board.

Bar to
Fragmenta-
tion.

42. (1) Notwithstanding anything contained in any law for the time being in force, no land in the area notified shall be acquired by the State Government or any Local authority or sold at any sale held under the orders of any Court so as to create a fragment or make a smaller fragment.

(2) The auction-purchaser of a fragment in a Court sale shall file before the Court notices of such sale for service to the Executive Officer of the Committee. No sale shall be confirmed until notices are filed.

Scheme of
consolida-
tion.

43. For the purpose of consolidating holdings in any area where there is a Krushi Samiti, the Commissioner of Agriculture may call for a scheme of consolidation from the Krushi Samiti through the Committee and may appoint an officer, known as Consolidation Officer, to scrutinise it or failing the submission of any scheme by the Krushi Samiti, direct the Consolidation Officer to prepare a scheme in consultation with the Krushi Samiti.

Payment
and reco-
very of
compensa-
tion.

44. The scheme, prepared under the preceding section, shall provide for payment of compensation to any tenant who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any tenant who is allotted a holding of greater market value than that of his original holding. The amount of compensation shall be determined so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 :

Provided that such compensation may be payable or recoverable in not more than three annual instalments. I of 1894

Realignment
of road,
street, lane
or path.

45. (1) The Consolidation Officer, in consultation with the Krushi Samiti, shall be competent to realign any road, street, lane or path that might be in existence prior to the preparation of the scheme and no person shall be entitled to any additional compensation on account of this realignment.

(2) No claim for compensation on account of the extinction or diminution of the right of easement or user over such road, street, lane or path shall be entertained.

Publication
of the draft
scheme.

46. (1) The Consolidation Officer after scrutinising the scheme submitted by the Krushi Samiti under section 43 or after preparing his own scheme under the said section shall submit it through the Committee to the Board for approval. The Board may after approval direct the publication of the draft scheme in the village in the prescribed manner inviting objections to be filed before the Consolidation Officer within one month from the date of such publication.

(2) On receipt of objections under sub-section (1) he shall hear the objections and submit the scheme to the Commissioner of Agriculture, giving particulars of the scheme, nature of objections received, his recommendations thereon and a statement of the amount of compensation, if any, which in his opinion, is payable and of the persons by whom and the persons to whom such compensation is payable.

(3) The decision of the Commissioner of Agriculture in all matters except compensation provided in sub-section (2) shall be final. The scheme as finally approved shall be published in the Gazette.

(4) An appeal shall lie before the Tribunal in respect of payment of compensation fixed by the Commissioner of Agriculture as provided in section 57 :

Provided that nothing in this sub-section shall affect the power of the Commissioner of Agriculture to give effect to the scheme of consolidation.

Execution
of the
scheme

47. After final approval of the scheme by the Commissioner of Agriculture under sub-section (3) of section 46, the Consolidation Officer, shall proceed to give effect to it after giving such notice as may be prescribed from the commencement of the next agricultural year unless the persons affected by the scheme mutually agree to give effect to it earlier and shall, if necessary, put the tenants entitled thereto in possession and he may evict any person from any land comprised in the scheme in the prescribed manner.

Explanation—“Agricultural Year” means, where the Oriya year prevails, the year commencing on the first day of Baisakh of the Oriya year, where the Fasli year prevails, the year commencing on the first day of July and where any other year prevails for agricultural purposes, that year :

Provided that in the event of any question as to the particular agricultural year in any area, the notification by the Board of Revenue on this behalf shall be conclusive.

Bar to
possession
for non-pay-
ment of
compensa-
tion.

48. Notwithstanding anything contained in section 47, no tenant shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner at least fifteen days prior to the commencement of the said agricultural year the first instalment or the whole of such compensation as is recoverable from him under the scheme.

Re-allot-
ment.

49. Where a tenant fails to comply with the provisions of section 48, his holding may be re-allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the tenant and any other person having an interest in the holding.

Scheme to come into operation.

50. Such scheme shall be deemed to have come into operation with effect from such date as notified by the Board after the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them.

Transfer by exchange or otherwise not to be affected.

51. Notwithstanding anything contained in any law for the time being in force, the rights of tenants, or other persons having interest, shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise.

Granting of certificate.

52. (1) The Consolidation Officer shall grant, to every tenant to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a holding is re-allotted under section 49, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect **XVI** of that the holding has been transferred to him in pursuance of 1908 the scheme.

(2) Notwithstanding anything contained in any law for the time being in force, no stamp or registration fee shall be payable in respect of such certificate.

Grant of loan.

53. The Consolidation Officer may, subject to the approval of the Board, for carrying out any of the purposes of this Chapter, grant a loan to a tenant to be recovered from him as a **XIX** of 1883 loan under the Land Improvement Loans Act, 1883, or the Agriculturalists' Loans Act, 1884. **XII** of 1884.

The functions of the Consolidation Officer for consolidation proceedings.

54. (1) During the continuance of the consolidation proceedings, the Consolidation Officer shall exercise and discharge the functions of a revenue officer and all suits and execution proceedings under any revenue law, involving sale of or dispossession from any land in the area, which has been taken up for purpose of consolidation, shall be transferred to the Consolidation Officer for disposal.

(2) During the continuance of such proceedings no transfer of land contained in the scheme of consolidation shall be valid.

Rights in respect of allotment.

55. Every tenant to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights and obligations except in regard to rent in such holding as he had in his original holding :

Provided that nothing in this section shall apply to any person to whom a holding has been re-allotted under the provisions of section 49.

Encumbrances of tenants in respect of their holdings.

56. (1) Notwithstanding anything contained in any law for the time being in force, if by the process of consolidation, a holding or fragment is not allotted to the original tenant, the mortgage or encumbrance, attached to the holding or fragment, shall cease and the liability on account of the mortgage or other encumbrance shall be the personal liability of the tenant, but if the tenant gets another holding or fragment in the scheme of consolidation, the creditor or the person entitled to the benefits under the encumbrance shall have the right to realise his benefits from the same as if it was encumbered in the same way as the land in respect of which the mortgage or encumbrance has ceased.

(2) The Consolidation Officer may, in cases where a mortgagee or other encumbrancer referred to in sub-section (1) is in possession of a holding or fragment, put the said mortgagee or other encumbrancer, as the case may be, in possession of the holding allotted on the same term and conditions attached to the holding or fragment in respect of which the encumbrance was created.

Determina-
tion of com-
pensation.

57. Determination of compensation under this Chapter shall in the first instance be made by the Consolidation Officer and notified in the prescribed manner after the scheme is finally approved under sub-section (3) of section 46. Any person aggrieved by the decision of the Consolidation Officer may file an objection before him within fifteen days of such notification. Thereupon the Consolidation Officer shall transmit the objection to the Committee who shall within thirty days of the receipt of the objection refer it to the Tribunal for decision which shall be final.

Subdivisions
of the
holdings.

58. After the scheme of consolidation has been given effect to, any transfer or lease of a holding which is less than the minimum area, as notified in section 39, shall be subject to the same restrictions as contained in section 40 and no subdivision of holding shall be recognised. All transfers or subdivisions of other holdings resulting in a fragment shall also be void and the provisions of section 41 shall also apply to all these cases.

Rectifi-
cation of the
scheme.

59. It shall be competent for the Board to order rectification of error, defect or irregularity in any scheme already given effect to after giving such publications as may be prescribed and it shall also be competent for the Board to order variation or revocation of a scheme of consolidation already given effect to or its replacement by a subsequent scheme duly prepared, published and confirmed in accordance with this Chapter.

Power of the
Board to
call for and
examine
records.

60. The Board may, at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Chapter, call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

CHAPTER VII

AGRICULTURAL IMPROVEMENT FUND

Agricultural
Improve-
ment Fund.

61. There shall be constituted a fund to be called "The Agricultural Improvement Fund" (hereinafter referred to as the Fund) and the State Government shall make annual contribution of ten lakhs of rupees from the Consolidated Fund of the State to the Fund.

Contribution
to the Fund.

62. To the credit of the Fund shall be placed—

- (1) the annual contribution by the State Government ;
- (2) other contributions received from the State Government or the Central Government from time to time ;
- (3) all fines, forfeitures and penalties imposed under this Act ;
- (4) all recoveries under this Act ;

- (5) all fees and levies imposed under this Act ;
 (6) all contributions received for any work to be undertaken by or under the supervision of the Board ; and
 (7) such part of the grants for food production as may be placed at the disposal of the Board by the State Government.

Purposes to which the Fund shall be applicable.

63. The Fund constituted under section 61 shall apply for the following purposes, namely :—

(1) all expenditure incurred under this Act including compensation payable to dispossessed tenants or expenditure incurred on execution of Board's directions ;

(2) all expenditure connected with the staff entertained under this Act or other expenditure connected with the Board, the Committee, Samiti, or the Tribunal.

Administration of the Fund.

64. The Fund shall vest in the Board and it shall be administered in the prescribed manner.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

Recovery of sums due under the Act.

65. All amounts due to be recovered under this Act shall be recovered as a public demand under the Bihar and Orissa Public Demands Recovery Act, 1914, or in an area where the said Act is not in force, as an arrear of land revenue under the provisions of the law for the time being in force in such area for the recovery of arrears of land revenue.

Power to enter upon survey and demarcate.

66. (1) Any person authorised by the Board to do anything under this Act shall have the power, after giving notice to the owner or occupier or any person interested in any movable or immovable property, to enter upon, survey, and demarcate land and take temporary possession of property for the purpose of carrying out the directions of the Board.

(2) The compensation payable for temporary dispossession of property shall be such as will be fair, reasonable and adequate in the circumstances of the case and if such compensation cannot be fixed by mutual agreement it shall be determined by the Tribunal on a reference made to it by the Committee.

Enquiries

67. Enquiries under this Act will be of a summary nature. Any person authorised to make an enquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908.

Public servants.

68. The members of the Board, of the Committee and of the Tribunal and Krushi Samiti and persons authorised by the Board while discharging their duties under this Act shall be deemed to be Public Servants within the meaning of the Indian Penal Code.

Protection of action taken under the Act.

69. (1) No, suit, prosecution or other legal proceedings shall be instituted in any Court against any person authorised by the Board under this Act for anything done or intended to be done under this Act or the rules made thereunder.

(2) No suit shall be brought in any Civil Court to set aside or modify any order of the Board or Committee under this Act or to question the decision of the Tribunal in regard to any matter referred to it by the Committee or the Board for decision under the provisions of this Act.

Improvement work to be put in charge of agents or beneficiaries.

70. (1) Notwithstanding anything contained in any law for the time being in force, the State Government, or subject to prior approval of the State Government, the Board, may, if it deems fit, place any work of improvement of the nature of an irrigation work, embankment and such other works to be executed by the State Government, in charge of any officer or agency under the Board or in charge of one or more beneficiaries.

(2) The persons so placed in charge under sub-section (1) shall take all measures for repairs and maintenance of the said work.

(3) The Board may thereupon direct that the whole or part of such repairs and maintenance shall be recovered from the beneficiaries in such proportions as may be deemed by the Board as fair and equitable.

Requisition of land.

71. (1) Where land is required by the Board, it shall be competent for it to apply to the authority competent to order requisition under any law for the time being in force relating to requisition and acquisition of immovable property and such authority shall thereupon pass such orders as it deems fit.

(2) For the purpose of discharging its functions under the Act, the Board shall be competent to undertake the management of land vested in the Board either directly or through such agencies and officers as the Board may appoint from time to time and the lands shall be managed in the prescribed manner.

(3) Where a tenant holding land vested in the Board has to incur expenditure in reclaiming the same he shall be entitled to remission of rent for the first three years and then to gradual assessment of rent.

Delegation of powers.

72. The Board may delegate any of its powers under this Act, except the power to hear appeals, to any of the following officers or agencies :—

(1) Commissioner of Agriculture,

(2) District Agricultural Executive Committee,

(3) Any Revenue Officer not being below the rank of a Subdivisional Magistrate,

(4) Any Agricultural Officer not being below the rank of a District Agricultural Officer or Assistant Director of Agriculture,

(5) Any Krushi Samiti,

(6) Any Grama Panchayat.

Constitution of an appeal sub-committee.

73. (1) For the purpose of hearing appeals under this Act, Chairman of the Board shall appoint a Sub-Committee consisting of the Commissioner of Agriculture as Chairman and two other members of the Board, and the Sub-Committee so appointed shall dispose of the appeals preferred to the Board.

(2) Every appeal shall bear such court-fees as are for the time being payable for a petition before the Board of Revenue.

(3) The decision of the Board on every appeal under the Act shall be final, but the Board shall have power to review its order, of its own motion, for the purpose of correction of mistakes and it may further entertain applications for review and hear parties affected unless it decides to summarily reject such applications.

Other powers of the Board.

74. (1) The Board shall have powers to take initiative also in all matters assigned to Committees and Krushi Samitis and shall also have powers of revision over the orders issued by them, call for their records and pass such other orders as it may consider fit.

(2) The Board shall be competent to issue such general directions under section 11 and section 22 to proprietors and tenants respectively in respect of matters referred to in Chapters III and IV as it may deem necessary for the discharge of its functions under this Act.

Powers to make rules.

75. (1) The State Government may subject to the condition of previous publication make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may prescribe :—

(a) the manner and procedure of constitution and function of—

- (i) the Board,
- (ii) the Committee,
- (iii) the Tribunal, and
- (iv) the Krushi Samitis ;

(b) the manner in which notices and directions shall be issued by the Board, Committee, Krushi Samiti or any other agencies and officers subordinate to the Board ;

(c) the mode in which schemes for improvement shall be prepared and executed under Chapter V ;

(d) the mode in which the Consolidation Scheme shall be prepared under Chapter VI ;

(e) the duties and responsibilities of various officers and agencies subordinate to the Board ;

(f) the manner in which lands shall be managed by the Board or its agencies and officers ;

(g) all other matters which are expressly required or allowed by the Act to be prescribed.

(3) All rules made under this Act shall be published in the Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

(4) All rules made under this section shall be laid, as soon as possible, after they are made, before the Orissa Legislative Assembly, for a total period of fourteen days which may be comprised in one Session or in two or more Sessions and shall be subject to such modifications as the Assembly may make during the said period.

Power of 76. The Board may, with the sanction of the State Govern-
the Board to ment, make supplementary rules consistent with this Act and
make regu- the rules thereunder—
lations.

(1) regulating the manner in which all officers or agencies authorised by the Board to do anything under the Act shall discharge their duties;

(2) regulating the manner in which appeals shall be conducted including stay of execution pending disposal of an appeal, service of notice, representation of parties, hearing or adjournment of hearing of appeals and publication of the decisions of appeals;

(3) generally for the guidance of all persons* in all proceedings under this Act and for carrying out its functions under the provisions of the Act