

THE TENANCY ACT, 1946.

[BURMA ACT NO. XXI OF 1946.]

WHEREAS it is expedient to provide for the regulation in certain respects of agricultural tenancies;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof; 26 Geo. 5,
c. 3.

NOW, THEREFORE, by and with the advice of the Legislative Council appointed by him under the Proclamation, dated the seventeenth day of October, 1945, and in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Tenancy Act, 1946.
(2) The provisions of sections 1 and 72 shall be applicable to the whole of Burma, and the remaining provisions of this Act shall extend to such areas as the Governor may from time to time, by notification, appoint.
2. Nothing in this Act shall apply to—
(a) any person who cultivates land or lands exceeding in the whole fifty acres in area; or
(b) any person who holds land directly under the Crown; or
(c) any credit institution created, controlled or guaranteed by Government, the principal business of which is the granting of loans to agriculturists:
Provided that the Governor may, by notification, declare that in any locality, to be specified in the notification, or in respect of land or which any crop, to be so specified, is grown, some other specified figure shall be substituted for the figure fifty in clause (a).
3. In this Act, unless there is anything repugnant in the subject or context,—
Definitions,
(1) "agriculturist" means a person—
(a) who is engaged in the cultivation of land with his own hands as his principal means of subsistence; or

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(b) who satisfies the following conditions, namely—

- (i) that he superintends personally and throughout the working periods of the year the actual cultivation of land, and
- (ii) that he derives the major part of his income either from such superintendence or from the cultivation of land with his own hands or jointly from such superintendence and such cultivation;

(2) "charge" means a charge created by section 15;

(3) "improvement" means a work, made after the coming into force of this Act and suitable to the tenancy, by which the productivity of the land is increased, and includes—

(a) the construction of works for drainage and for protection against floods;

(b) the construction of works for the storage and supply of water for agricultural purposes;

(c) the reclaiming, enclosing, levelling and terracing of land for agricultural purposes;

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

but does not include manuring or such clearances, embankments, levellings, enclosures or water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to the land from the ordinary operations of husbandry;

(4) "labourer" means a person employed for wages in the cultivation of land;

(5) "land" means land which is occupied or has been leased for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings and other structures on such land, but does not include land which is within a town or village and is occupied as the site of any building;

(6) "landlord" means any person under whom a tenant holds land and to whom or on account of whom such tenant is liable to pay rent in respect of the said land, and who is not himself liable to pay rent to or on account of any person in respect of the said land;

(7) "lease" includes a counterpart, an undertaking to cultivate or occupy, and an agreement to lease;

(8) "normal gross outturn" of a tenancy means the gross produce to be expected from the tenancy when cultivated with due diligence under normal conditions;

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

(10) "rent" means any fixed payment in money, kind or service payable by a tenant on account of the use or occupation of the land held by him to or on account of the landlord;

(11) "Rent Settlement Officer" means any person, not lower in rank than a Deputy Commissioner, whom the Governor may appoint for any specified district or districts to exercise and

perform the powers, duties and functions of a Rent Settlement Officer under this Act;

“Revenue Officer” means any person whom the Governor may appoint to exercise and perform, within such local limits as are specified in the order of appointment, the powers, duties and functions of a Revenue Officer under this Act:

Provided that, except in the case of a Myoók in charge of a Subdivision and except for special reasons to be recorded in writing, no person who is lower in rank than an Extra Assistant Commissioner or a Superintendent of Land Records shall be appointed a Revenue Officer;

(13) “sub-tenancy” means the holding of a sub-tenant under a single sub-lease;

(14) “sub-tenant” means a person who holds land under a tenant and is liable to pay rent for the said land to the said tenant, but does not include an agent or labourer employed by a tenant;

(15) “tenancy” means the holding of a tenant under a single lease;

(16) “tenancy year” means the twelve months beginning with the Burmese New Year day, or from such other date as the Governor may, by notification, appoint for leases of any particular kind of land;

(17) “tenant” means a person who holds land under a landlord and is liable to pay rent for the said land to or on account of the said landlord, but does not include a sub-tenant, or a mortgagee, or an agent or labourer employed by a landlord;

(18) “wages” means the amount in money or kind which an employer is legally bound to pay to a labourer for work done in the cultivation of land;

(19) “fraudulently” or “dishonestly” shall have the same meaning as in the Penal Code.

CHAPTER II.

DETERMINATION OF RENT.

4. The tenant of a tenancy for which the standard rent has been fixed shall not be liable to pay a rent in excess of such standard rent on account of the tenancy.

Standard rent alone payable for tenancy.

5. (1) The Governor shall, by notification, fix upper and lower limits, expressed by way of percentages of the normal gross outturn, within which the standard rent of a tenancy shall be fixed, and the standard rent shall be determined within such limits by a Revenue Officer, acting under the provisions of section 8, in his discretion but subject always to any directions which may be issued in this behalf by the Governor.

(2) The percentages fixed under sub-section (1) may vary for different localities or for different crops, or for different classes of land.

6. In fixing the percentages of the normal gross outturn under section 5, the following factors shall be taken into consideration, namely :—

Facts to be considered before issuing notification under section 5.

- (a) the average cost of cultivation (including the reasonable remuneration of such necessary labour in cultivation as is performed by the tenant or any member of his family living with him) of the crop or crops usually grown on land in the area in which and of the kind to which the notification will be applicable;
- (b) the cost of collecting the rent according to local usage or custom in respect of such land and in such area;
- (c) the rents which have been previously paid for such land and within such area;
- (d) the incidence of land revenue on such land and within such area; and
- (e) the certainty or uncertainty of crops on such land and within such area:

Provided that the Governor shall not be bound to hold, or to direct the holding of, any enquiry for the purpose of determining any of the above factors.

7. (1) A landlord or a tenant may, on or before such date as may be prescribed, apply to the Revenue Officer within whose jurisdiction the tenancy is situated for the determination of the standard rent of the tenancy.

(2) The application shall be in such form and shall contain such particulars as may be prescribed.

8. (1) On receipt of any such application the Revenue Officer shall fix a date for the hearing of the application, and shall give due notice thereof to the applicant and, if the applicant is the tenant, to the landlord, or, if the applicant is the landlord, to the tenant.

(2) On the date fixed, or on any subsequent date to which the enquiry may be adjourned, the Revenue Officer shall, with the assistance of three *thamadis* selected from among the agriculturists of the locality in which the tenancy is situated, proceed to determine the normal gross outturn of the tenancy.

(3) One *thamadi* shall be appointed by the Revenue Officer, one by the landlord, and one by the tenant:

Provided that, if either the landlord or the tenant fails to appoint his *thamadi* on or before the date fixed for hearing, the appointment shall be made by the Revenue Officer.

(4) The enquiry for the determination of the normal gross outturn shall be held in the village-tract in which the tenancy is situated. The Revenue Officer shall hear the landlord and the tenant (if they appear) and also all such witnesses as they may respectively produce. He may also make such other enquiries or conduct such experiments as he may deem necessary.

(5) If either the landlord or the tenant fails to attend on the date fixed for the enquiry, or on any subsequent date to which it may be adjourned, after having been duly served with notice or informed of

the said date, or if both the landlord and the tenant so fail to attend, the Revenue Officer may proceed to determine the normal gross outturn in their absence.

(6) When the normal gross outturn of the tenancy has been determined as aforesaid, the Revenue Officer shall determine the standard rent thereof in accordance with the provisions of sub-section (1) of section 5.

(7) The order of the Revenue Officer determining the standard rent shall state the place at which payment of the rent shall be made and whether it shall be paid in money or in produce, and if in produce the standard of weight or measure to be used in the measurement thereof; and in deciding the above-mentioned matters the Revenue Officer shall conform to the existing practice of the tenancy.

8. At any time before the order determining the standard rent is passed the applicant may withdraw his application, whereupon the Revenue Officer shall close the case.

Liberty of applicant to withdraw.

9. An order determining the standard rent of a tenancy shall operate from the commencement of the tenancy year next following the date of the filing of application, and shall be valid for a period of three years.

Duration of order determining standard rent.

10. (1) Notwithstanding anything contained in section 4, the rent payable by a tenant may—

Modification of rent due to improvement or deterioration in tenancy.

- (i) on the application of the landlord, be enhanced by the Revenue Officer within whose jurisdiction the tenancy is situated, after due enquiry in the manner provided in section 8, on the ground that an improvement in the tenancy has been effected by, or at the expense of, the landlord since the rent was agreed upon or was determined as the standard rent under this Act;
- (ii) on the application of the tenant, be reduced by the Revenue Officer, after due enquiry in the manner provided in section 8, on the ground that a deterioration has taken place in the tenancy as the result of an act or omission on the part of the landlord or of some person on his behalf, since the rent was agreed upon or was determined as the standard rent under this Act;
- (iii) on the application of either the tenant or the landlord, be enhanced or reduced by the Revenue Officer, after due enquiry in the manner provided in section 8, on the ground that the rates of land-revenue payable in respect of the tenancy have been varied or that the normal gross outturn has changed substantially from natural causes.

(2) Such enhancement or reduction shall be determined with due regard to the increase or decrease of the normal gross outturn of the tenancy resulting from such improvement or deterioration, or with regard to the alteration in the amount of land-revenue payable, as the case may be.

(3) The rent as determined by the Revenue Officer under this section shall constitute the standard rent of the tenancy and shall be valid for a period of three years.

(4) On the application of the tenant, and without any alteration of the standard rent of the tenancy, the rent payable by the tenant for the current tenancy year may be reduced by the Revenue Officer on the ground that the landlord has for that year obtained a remission of land-revenue.

12. Where the standard rent of a tenancy has been fixed under section 11, the Revenue Officer may at any time, on the application of the landlord or the tenant, modify such standard rent by reducing or enhancing it to such extent as he may deem just, on the ground that the effect of the improvement or deterioration on the productivity of the tenancy has ceased or diminished, or that the rates of land-revenue payable in respect of the tenancy have been again varied, or that the effect of the natural causes or the normal gross outturn of the tenancy has ceased or diminished, as the case may be, since such standard rent was fixed.

Modification of standard rent when effect of improvement or deterioration in tenancy has ceased.
13. (1) A Rent Settlement Officer may call for the proceedings of any Revenue Officer in which the standard rent of a tenancy within his jurisdiction has been determined under the provisions of this Chapter, and any proceedings in which the order of the Revenue Officer determining the standard rent of such tenancy has been varied on appeal or in revision.

Powers and duties of Rent Settlement Officers.
(2) The Rent Settlement Officer may thereupon hold such enquiry as he thinks fit into the fairness of the standard rent as determined in respect of such tenancy, and on completion of such enquiry shall report to the Governor on the fairness of the standard rent so determined, or, on completion of all such enquiries, on the fairness of the standard rents generally within his jurisdiction. On receipt of such report, and after such further enquiry (if any) as he may deem necessary, the Governor may pass such order as he thinks fit, cancelling or modifying the order or orders relating to the standard rents of any tenancy or tenancies or class of tenancies within the jurisdiction if the Rent Settlement Officer.

14. Notwithstanding anything contained in this Chapter, the Governor may, at any time, for exceptional reasons, pass such order as he may deem necessary with reference to any standard rent determined under this Chapter.

Power of Governor to pass general order as respects standard rents.

CHAPTER III.

CHARGES OF LANDLORDS, LABOURERS AND OWNERS OF CATTLE.

15. (1) The unpaid rent payable for the current tenancy year in respect of a tenancy and the unpaid wages of necessary labourers employed by the tenant in the same year shall rank equally and shall be a first charge on the produce thereof for that year.

Charges on produce.

(2) The unpaid advances granted by the landlord to the tenant to meet the expenses of cultivation in respect of the current tenancy year, the unpaid interest thereon and the unpaid hire of cattle for the same year shall rank equally and shall be a second charge on the produce thereof for that year:

Provided that the advances and the interest so charged shall be limited to such sum per acre and such rate not exceeding one per cent per month, respectively, as may be prescribed generally or for any particular area.

16. The produce of the tenancy, until it is removed from the tenancy after thrashing, winnowing and the like operations customary before removal, shall continue to be subject to the charges specified in section 15 and until such charges have been satisfied or have lapsed under the provisions of this Chapter, no other claim on the produce shall be enforced, whether by attachment or sale in execution of a decree of a civil Court or otherwise:

Provided that, if an order or orders of attachment or sale is or are issued against such produce by a Court or Courts, the surplus of the produce; if any, remaining after such charges have been satisfied shall be deposited in the Court from which the order of attachment or sale was issued, or, if more than one such order were issued by different Courts, in the superior of such Courts, or, in the case where the attaching Courts are of the same grade, in the Court which first attached the produce.

17. When the produce of the tenancy is insufficient to satisfy the first charge in full it shall be divisible among the persons entitled to the charge in proportion to the amounts respectively due to each of them.

Division when produce is insufficient to satisfy first charge.

18. When the produce of the tenancy is sufficient to satisfy the first charge, but is insufficient to satisfy the second charge in full, the balance remaining after the first charge has been satisfied shall be payable to the landlord and to the owner of hired cattle in proportion to the amounts respectively due to each of them.

Division when produce sufficient to satisfy first charge but not the second.

18. (1) If any person, who has a charge on the produce under section 15, fears that the produce of the tenancy may be removed therefrom before his charge is satisfied, he may apply in writing to the headman of the village-tract in which the tenancy is situated to attach the produce or the standing crops of the tenancy.

Attachment of produce when charge-holder fears his charge will be defeated.

(2) In the absence of the headman, the application may be made to a member of the Village Committee, or, if no Village Committee has been constituted for such village-tract, to a ten-house-gaung or ywagaung.

20. (1) The person to whom the application is made shall forthwith issue a warrant in the prescribed form attaching the produce or the crops, and shall appoint some proper person nominated by the applicant to take care thereof during the pendency of the attachment. Such warrant shall not be executed if the produce has been already removed from the tenancy.

(2) The person appointed under sub-section (1) to take care of the produce or the crops shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

21. (1) A person applying for attachment under section 19 shall, at the time of making his application, pay to the headman or other person to whom the application is made such sum as may be prescribed for the benefit of the person appointed under sub-section (1) of section 20 to take care of the produce or crops during the pendency of the attachment, and such sum, or such part thereof as is due to him, shall, on the conclusion of the attachment, be paid to such person as his remuneration, any balance remaining over being refunded to the applicant.

(2) Any sum so paid shall form part of the costs in any suit filed by the applicant against the tenant for the recovery of wages, rent, loans, interest or hire due in respect of the same tenancy year.

22. (1) Standing crops which have been attached under section 20 may, notwithstanding the attachment, be reaped by the tenant, and gathered, thrashed, winnowed or stored in such place as is in common use by him for such purposes, under the supervision of the person appointed under sub-section (1) of section 20 to take care of the attached crops.

(2) If the tenant neglects at the proper time to reap, gather, thrash, winnow or store any crops which have been attached under section 20, the applicant for attachment may reap, gather, thrash, winnow or store such crops, or may cause such crops to be reaped, gathered, thrashed, winnowed or stored, in such place as may be convenient under the supervision of the person appointed under sub-section (1) of section 20. Any reasonable expenses incurred by the applicant under this sub-section shall be recoverable by him as an addition to his charge.

23. If a person having a charge under section 15 appears before the Judge of the civil Court of lowest grade having jurisdiction in a suit filed by such person against the tenant for the recovery of the amount of such charge, and states on oath that the headman or other village authority mentioned in section 19 has refused to issue a warrant of attachment under section 20 on his written application, the Judge, on being satisfied that such person has a charge on the produce of the tenancy, shall himself take action under section 20.

24. An attachment under section 20 shall be made by affixing the warrant—

Mode of execution
of warrant of attach-
ment.

- (i) when the attachment includes growing crops, on the land on which such crops are being grown;
- (ii) when such produce has been cut or gathered, on the place where the produce is.

25. (1) A warrant of attachment issued under section 20 or section 23 shall not remain in force for a period exceeding twenty-one days from the date of its execution unless before the end of that period a competent civil Court orders that it shall continue to be in force.

Duration of attach-
ment.

(2) If during the period of twenty-one days mentioned in sub-section (1) a person having a charge under section 15 files a suit in a civil Court having jurisdiction for the recovery of the amount of his charge, such Court may, either with or without notice to the tenant, direct that the attachment shall remain in force for such period as the Court may deem necessary.

26. Notwithstanding anything contained in this Chapter, the tenant shall have an absolute right to remove from the tenancy, whether before or after attachment, (i) produce for the support of himself and his family not exceeding such quantity as may be prescribed, and (ii) seed grain in such quantity, as, according to rules made in this behalf, is sufficient for the cultivation of the tenancy.

Saving of *wunsa* and
seed grain from attach-
ment.

27. Nothing in this Chapter shall prevent the tenant, with the consent of all the persons having charges under section 15, from selling the produce of the tenancy and depositing the proceeds of the sale in such place or in the custody of such person as they may mutually agree upon, and such proceeds of the sale shall be subject to the same charges as those to which the produce was subject. If the produce was attached under section 20 or section 23 before the sale, such attachment shall be equally effective against the proceeds of the sale.

Sale of attached pro-
duce by agreement and
transfer of attachment
thereto.

28. If, at any time during the pendency of an attachment under this Chapter, the person who applied for the attachment informs the authority which issued the warrant of attachment or, if the attachment has been continued, the Court which continued the attachment, by a written petition, that he desires the attachment to be removed, the authority or Court shall forthwith remove the attachment.

Removal of attachment
on application.

29. For the purposes of this Chapter, notwithstanding anything contained in clause (15) of section 3, the thrashing floor or other place where produce is taken and kept for thrashing, winnowing, treading out of grain or other similar process, shall be deemed to be a part of tenancy.

Tenancy to include
thrashing floor for
purposes of this
Chapter.

CHAPTER IV.

IMPROVEMENT.

30. A landlord may at any time make improvements to his land, notwithstanding that the land is in the occupation of a tenant.

Right of landlord to make improvements to land.

31. Where a tenant makes an improvement to the tenancy during his occupation thereof, he shall, on vacating the tenancy be entitled to compensation for such improvement from the landlord:

Compensation for improvement by a tenant.

Provided that no compensation shall be payable by the landlord unless the improvement was made with his written permission.

32. (1) No suit for any compensation payable under section 31 shall be instituted in any civil Court, but all claims for compensation shall, on the application in writing of the tenant making the claim, be decided by the Revenue Officer within whose jurisdiction the tenancy is situated.

Revenue Officer to decide disputes as to compensation.

(2) On receipt of an application under sub-section (1), the Revenue Officer shall decide the amount of compensation, if any, payable to the tenant, after inspecting the alleged improvement and holding a local enquiry with the aid of three *thamadis* in accordance with the procedure provided by section 8.

(3) If any sum recoverable by the landlord as a charge under Chapter III is in arrear, such arrear shall be set off against any compensation awarded to the tenant under section 31.

33. In estimating the amount of compensation payable under section 31, the Revenue Officer shall have regard to the following matters, namely:—

Matters to be taken into consideration, in estimating compensation.

- (a) the amount by which the produce of the tenancy or the value of that produce has been increased by the improvement;
- (b) the nature of the improvement and the probable duration of the effects thereof;
- (c) the labour, materials and money expended in making the improvement;
- (d) any remission or reduction of rent or other advantage given by the landlord to the tenant in consideration of the improvement; and
- (e) the length of time during which the tenant has received the benefit of the improvement.

34. No claim for compensation under this Chapter shall be entertained by a Revenue Officer unless made within sixty days of the date on which the tenant ceased to be entitled to have his lease renewed for the succeeding tenancy year.

Limitation for claims for compensation.

CHAPTER V.

RESTRICTIONS ON THE DISPOSAL OF TENANCIES.

35. A tenant who has treated his landlord fairly shall, subject to the provisions of this Chapter and provided that he is willing to pay the standard rent of the tenancy, be entitled to have his lease renewed for the succeeding tenancy year:

Right of tenant who has treated his landlord fairly to renewal of tenancy.

Provided that, where a tenant proposes to plant a crop which takes more than one year to mature, or which is harvested for two or more years in succession without replanting, the lease of the tenant may be renewed for such period exceeding one year as will ensure that the tenant will obtain the full produce of his crop, on condition that the tenant pays for each year the standard rent of the tenancy.

Explanation.—For the purposes of this section, where no standard rent has been determined under Chapter II, the standard rent of the tenancy shall be deemed to be the rent, as agreed between the landlord and the tenant, for the previous tenancy year.

36. (1) Notwithstanding anything contained in the Transfer of Property Act, a landlord may serve on his tenant a notice in writing of his intention to terminate the tenancy on the following grounds, and on no other grounds, namely:—

Termination of tenancy by landlord.

- (i) that the tenant has treated the landlord unfairly; or
- (ii) that the tenant is unwilling to pay the standard rent of the tenancy; or
- (iii) that the landlord, being an agriculturist, intends to work the land himself; or
- (iv) that the landlord, not being an agriculturist, intends to work the land himself as his principal means of subsistence; or
- (v) that the landlord intends to assign the tenancy to a son, daughter, son-in-law, or grandchild who is an agriculturist and who will work the land himself or herself; or
- (vi) that the landlord intends to let the land lie fallow so as to permit the soil to recover from exhaustion and that the land has not lain fallow or been adequately manured during the preceding six years; or
- (vii) that the landlord intends to use the land for industrial, residential, religious or public purposes, or for the construction of roads, bridges, embankments, drainage, fishery or irrigation works, or for the provision of a supply of water for human beings or cattle:

Provided that no such notice shall be valid unless it is duly served on the tenant—

- (a) if the notice is under clause (i) or clause (ii), not less than fifteen days before the beginning of the new tenancy year, and

(b) if the notice is under clause (iii), clause (iv), clause (v), clause (vi) or clause (vii) not less than three calendar months before the beginning of the new tenancy year.

(2) A notice under sub-section (1) by a landlord to his tenant shall be served on the tenant in the manner provided by the second clause of section 106 of the Transfer of Property Act.

37. A tenant who has been served by his landlord with a notice under section 36 may apply to the Revenue Officer within whose jurisdiction the tenancy is situated for an order granting to him a lease of the tenancy for the ensuing year. Save as provided by the proviso to section 39, such application shall not be entertained unless it is made before the beginning of the new tenancy year.

Application to Revenue Officer by tenant under notice of termination of tenancy.

38. (1) On receipt of an application under section 37, the Revenue Officer shall fix a time and place for hearing the application and shall give notice thereof to the landlord and to the applicant.

Procedure on application under section 37.

(2) If, after due service of notice, the landlord fails to appear at the time and place appointed, the Revenue Officer shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant the application.

(3) If, after due service of notice, the applicant fails to appear at the time and place appointed, the Revenue Officer shall dismiss the application.

(4) If both the landlord and the applicant appear at the time appointed, and the landlord shows that he has given valid notice under section 36 of his intention to terminate the tenancy, the Revenue Officer, if satisfied that the reason or reasons given in the notice for terminating the tenancy is or are true and genuine, shall reject the application. If he is not so satisfied, he shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant the application.

39. (1) Where a Revenue Officer rejects an application under the provisions of sub-section (4) of section 38, the applicant shall be entitled to renew his application if he proves that the purpose for which his tenancy was terminated has for any reason not been effected or that the purpose has become frustrated within three years of the termination of his lease.

Renewal of application by tenant where landlord's purpose has not been effected.

(2) A renewed application under sub-section (1) shall ordinarily be in respect of the tenancy year following that in which it is made, but may, in special circumstances at the discretion of the Revenue Officer and at the request of the applicant, be deemed to be in respect of the tenancy year during which the application is made.

(3) Where a Revenue Officer has rejected an application for the reason given in clause (vi) under section 36, the applicant may apply subsequently for a fresh lease of the tenancy for the year following that in which the land has lain or was intended to lie fallow.

40. A tenant who before the beginning of the new tenancy year has not executed a lease for that year in respect of his tenancy shall be deemed to have vacated the tenancy unless prior to that date he has applied under section 37 to the Revenue Officer for an order granting him a lease:

Tenant failing to execute lease before tenancy year shall be deemed to have vacated tenancy.

Provided, however, that a tenant may apply to the Revenue Officer not later than the fifteenth day after the beginning of the new tenancy year for an order under section 41 granting him a lease of his tenancy for the ensuing year if his failure to execute the lease before the beginning of the tenancy year was due to evasion on the part of the landlord or the landlord's agent or to a refusal on the part of either of them to execute such a lease.

41. An application for an order under the proviso to section 40 shall be made to the Revenue Officer within whose jurisdiction the tenancy is situated; and the provisions of sub-sections (1), (2) and (3) of section 38 shall be applicable thereto. If the Revenue Officer, after such enquiry as he may deem necessary, is satisfied that the tenant's failure to obtain a lease before the beginning of the tenancy year was not due to evasion on the part of the landlord or his agent or the refusal of either of them to grant the lease, he shall reject the application. If, however, he finds that the tenant's failure was due to such evasion or refusal and if he is satisfied, after such enquiry as he may deem necessary, that the tenant has treated his landlord fairly and has paid the standard rent of the tenancy or the agreed rent, he shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant a lease to the applicant; and it shall not be necessary for him to enquire into the reasons for such evasion or refusal:

Application for renewal of lease by tenant under proviso to section 40.

Provided that if the landlord proves that he has duly served on the tenant a valid notice under section 36, the Revenue Officer shall proceed to decide the dispute in accordance with the provisions of sub-section (4) of section 38.

42. Every order passed under this Chapter granting a lease of a tenancy to an applicant therefor shall be deemed to be and shall have the same force as a lease of the tenancy for the tenancy year granted by the landlord to a tenant.

Effect of order under this Chapter.

43. Where a tenant absents himself from the tenancy or fails to cultivate it during the period and in the manner customary for the cultivation of that class of land, the landlord may apply to the Revenue Officer within whose jurisdiction the tenancy is situated for an order terminating the lease, and the Revenue Officer shall, if he is satisfied after due enquiry that the tenant has so absented himself or has so failed to cultivate, pass an order terminating the lease.

Termination of lease where tenant abandons the tenancy.

44. No tenant who is in occupation of a tenancy by virtue of a lease or an order under this Chapter shall, without the consent in writing of his landlord, transfer or sub-let his interest in the land or any part thereof to any other person. Any such transfer or sub-lease shall be deemed to be an abandonment of the tenancy within the meaning of section 43:

Abandonment of tenancy by unauthorized transfer.

Provided that when such consent has been given it shall not be withdrawn save by notice in writing stating the reasons for such withdrawal, and the reasons shall be such as are mentioned in sections 35 and 36.

45. (1) Every order passed by a Revenue Officer under this Chapter shall specify the date on or before which it must be obeyed.

Enforcement of orders by Revenue Officers.

(2) A Revenue Officer may give effect to any order passed either by himself or by any appellate or revisional authority by ejecting anyone in occupation of the land; and may for this purpose use such force as may be necessary.

46. For the purposes of this Chapter, the Governor shall prescribe those acts and omissions on the part of a tenant which shall be deemed to be unfair treatment by the tenant of his landlord.

Meaning of "unfair treatment" under this Chapter.

CHAPTER VI.

RIGHTS OF EJECTED TENANTS.

47. (1) The following provisions shall apply in the case of every tenant who is ejected from a tenancy of which he was in lawful occupation, namely—

Right of ejected tenant in respect of crops and land prepared for sowing.

- (a) if the tenant has, before the date of his ejectment, sown or planted a crop on any land comprised in the tenancy, he shall be entitled, at the option of the landlord, either to remain in occupation of such land on payment of the standard rent for the tenancy, or such proportionate part of the standard rent as is applicable to the land occupied, or, where no standard rent has been fixed, the rent, or such proportionate part of the rent as is applicable to the land occupied, as agreed upon in the latest lease between him and the landlord, for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the labour and materials and the money expended by him in preparing such land and sowing, planting and tending such crops;
- (b) if a tenant who has, before the date of his ejectment, planted a crop which may reasonably be expected to yield more than one harvest is ejected at any time after the first harvest

but before the last harvest which is reasonably expected to be obtained from such planting, the expenditure of labour, materials and money in preparing the land and in sowing, planting and tending the crop shall be deemed to have been incurred in respect of all the crops reasonably expected to be obtained from such planting, and the compensation to be paid by the landlord shall bear the same proportion to the cost of cultivation as the value of the harvests expected thereafter to be obtained bears to the total value of the harvests obtained and expected to be obtained;

- (c) if a tenant has, before the date of his ejection, prepared any land comprised in the tenancy for sowing or planting, but has not sown or planted any crops thereon, he shall be entitled to receive from the landlord the value of the labour and the materials and the money expended by him in preparing such land:

Provided that—

- (i) nothing in this sub-section shall enable a tenant to remain in occupation of any land if he has been ejected therefrom by reason of another person establishing thereto a title superior to that of his; and
- (ii) no compensation shall be payable under this sub-section if the tenant had cultivated or prepared the land contrary to any local usage or practice.

(2) Any sum recoverable by the landlord from the tenant under the provisions of this Act at the time of ejection of the tenant may be set off against any sum payable under the provisions of sub-section (1).

48. (1) A Revenue Officer ejecting a tenant in pursuance of an order passed under this Act shall determine the amount of compensation payable under section 47 and shall, on application by the ejected tenant, recover it from the landlord.

Determination of amount of compensation and recovery thereof.

(2) Where an appellate or revisional authority reinstates in his tenancy a tenant who has been ejected, such authority may, by the order passed on appeal or in revision, direct that the tenant so reinstated shall pay to the person, if any, who is evicted by the appellate or revisional decision, such compensation as ought to be paid on account of any advantage which will accrue to the tenant reinstated by its order by reason of any expenditure in the cultivation of the tenancy which the person evicted had incurred prior to his eviction, the provisions of section 47 being applicable as if the reinstated tenant were the landlord and the person evicted were the tenant.

CHAPTER VII.

SUB-TENANTS.

49. Subject to the following modifications, the provisions of this Act shall apply to sub-tenants and sub-leases in the same manner and to the same extent as they apply to tenants and leases:—

Application of Act to sub-tenants.

(a) In Chapters III and V the word "landlord" shall mean the tenant under the lease;

(b) Chapter IV, shall apply as between the landlord and the sub-tenant to the exclusion of the tenant;

(c) save as provided by clause (b), both the landlord and the tenant shall be necessary parties to proceedings relating to a sub-lease;

(d) withdrawal of consent under the proviso to section 44 shall be equivalent to the issue of a notice under the provisions of section 36;

(e) transfer by a sub-tenant of his interest in the tenancy or any part thereof shall be deemed to be an abandonment by him of the tenancy.

CHAPTER VIII.

APPEAL, REVISION AND REFERENCE.

50. Except as expressly provided by this Act, an order passed by a Revenue Officer shall be final, and shall not be subject to appeal to or revision by any Court or authority.

51. (1) Any person aggrieved by any order passed by a Revenue Officer may appeal against the order to the Deputy Commissioner to whom the Revenue Officer is subordinate.

Appeal to Deputy
Commissioner from
orders of Revenue
Officers.

Explanation.—A Revenue Officer shall be subordinate to the Deputy Commissioner of the district which includes the local limits of the jurisdiction of the Revenue Officer.

(2) The period of limitation for an appeal under this section shall be thirty days from the date on which the order appealed against was communicated to the appellant.

52. (1) On the presentation of an appeal under section 51, the Deputy Commissioner shall fix a date for hearing, of which notice shall be given to all parties appearing to be interested, and shall call for the record of the proceedings of the Revenue Officer.

Procedure at hearing
of appeal.

(2) On the date so fixed, or on any subsequent date to which the hearing may be adjourned, the Deputy Commissioner shall peruse the record, hear all such parties as may appear, and make, or cause to be made by the Revenue Officer, such further enquiry (if any) as he may deem necessary, and may then either—

(a) confirm the order of the Revenue Officer and dismiss the appeal, or

(b) reverse the order, or

(c) modify the order in such manner as he may deem fit, or

(d) set aside the order and direct a fresh enquiry before the same or any other Revenue Officer subordinate to him, and may make any consequential or incidental order that may appear to be necessary.

66. No civil Court shall exercise jurisdiction in respect of any matter the adjudication of which is entrusted to a Revenue Officer by this Act.

Bar to jurisdiction of civil Courts.

67. A Revenue Officer or a Rent Settlement Officer holding any enquiry under this Act may require any statement made before him to be made on oath or affirmation.

Power to require statements on oath.

68. Notwithstanding anything contained in section 91 of the Evidence Act, where a person has entered into an agreement in writing in respect of or as a labourer on certain land, he shall not thereby be prevented from proving by oral evidence or otherwise, that he is in fact the tenant of that land.

Exclusion of operation of section 91, Evidence Act, in certain matters.

69. Any provision in a lease that the tenant shall sell his produce only to the landlord or other specified person shall be void.

Condition in lease that sale of produce shall be to landlord void.

70. Any provision in any contract whereby a tenant or a labourer agrees that he shall not be entitled to any right to which he would otherwise be entitled under this Act shall be void.

Contracting out of Act prohibited.

71. (1) The Governor may make rules to carry out the purposes of this Act.

Power to make rules.

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

- (a) the date on or before which an application for the determination of standard rent shall be made under section 7;
- (b) the form of warrant of attachment under section 20;
- (c) the remuneration payable to persons appointed under section 20 to take care of attached produce;
- (d) the quantity of produce which a tenant may retain under clause (i) of section 26, and the quantity of seed grain sufficient for cultivation under clause (ii) of section 26;
- (e) the acts or omissions on the part of a tenant which shall constitute unfair treatment by the tenant of his landlord for the purposes of Chapter V.

(3) All rules made under this section shall be subject to the condition of previous publication.

72. The Tenancy Act, 1939, is hereby repealed.

Repeal.
Bur. X, 1939.

53. The Financial Commissioner may, either on his own motion or on the application of any person interested made within ninety days of the order sought to be revised, call for the record of any proceedings under this Act and may pass such order thereon as he thinks fit:

Provided that he shall not make an order reversing or modifying any order of a Revenue Officer or Deputy Commissioner without giving the parties affected thereby an opportunity of being heard.

54. (1) Where, in any case coming before him under section 53, any question of law arises on which he entertains a doubt, the Financial Commissioner may draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement, with his own opinion on the point, for the decision of the High Court, and the High Court shall give its decision on the point so referred.

(2) The High Court shall send to the Financial Commissioner a copy of its decision under the seal of the Court and the signature of the Registrar, and the Financial Commissioner shall dispose of the case in conformity with such decision.

CHAPTER IX.

OFFENCES.

55. Whoever, fraudulently or dishonestly,—

• Penalty for fraudulently or dishonestly causing attachment of produce.

(a) causes produce or crops to be attached under section 20 by representing that he has a charge thereon or

(b) removes the produce from the tenancy before the charges on it have been satisfied or before adequate provision for such satisfaction has been made,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

56. Any person who wilfully disobeys an order of ejectment passed under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Penalty for disobeying order of ejectment.

57. Any landlord, who, having obtained the termination of a tenancy on any of the grounds mentioned in clauses (iii), (iv), (v), (vi), or (vii) of section 36, fails, except for causes beyond his control, within twelve months of such termination to carry his alleged intention or intentions into effect, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

Penalty for improper termination of tenancy by landlord.

58. Whenever a Magistrate convicts a person of an offence punishable under section 55, section 56 or section 57, and sentences him to pay a fine, the Magistrate may direct that the whole or any part of the fine, if realized, shall be paid as compensation to any person for any loss or injury caused to such person by the offence.

59. An offence punishable under either section 55 or section 57 shall be compoundable by the aggrieved party.

Offences under sections 55 and 57 compoundable.

60. No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Chapter, and no Magistrate shall take cognizance of any such offence except upon the complaint of a Revenue Officer or the aggrieved party.

Cognizance of offences.

CHAPTER X.

MISCELLANEOUS.

61. Any notice or order issued under this Act by any authority for service on any person shall be served in the manner provided by the Code of Civil Procedure for the service of summons.

Service of notices, etc.

62. The provisions of sections 10, 11 and 12 of the Money-lenders Act, 1945, shall apply to loans made by a landlord to his tenant and to advances of wages paid by a cultivator to his labourers, as if the landlord or the cultivator, as the case may be, were a money-lender under the said Act.

Restriction on interest.

63. The costs of any enquiry or other proceeding under this Act shall be at the discretion of the authority holding the enquiry or proceeding, which may direct by whom, and to whom, and to what amount costs shall be paid, or out of what fund they shall be payable.

Costs.

64. Any sum payable or recoverable under any order passed by any authority under this Act may be recovered as if it were an arrear of land-revenue.

Recovery of sums awarded under this Act as arrears of land-revenue.

65. (1) Any act required or permitted to be done and any appearance required to be made by any person under this Act may be done or made by this agent duly authorized in that behalf.

Representation of party.

(2) In any enquiry, appeal, revision or reference under this Act, a party may be represented by a legal practitioner.