

THE AZAD JAMMU & KASHMIR LAND REFORMS ACT, 1960.

(ACT No. V OF 1960).

(Passed under Government Order No. 247/60 dated 28-4-1960).

Whereas it is necessary to introduce land reforms in the Azad Jammu and Kashmir Territory covering ownership and tenure of land, and to consolidate and amend the law relating to the grant of proprietary rights to occupancy tenants, it is hereby enacted as follows:-

PART I

PRELIMINARY

1. **Short title, extent and commencement:-**

- (i) This Act may be called the Azad Jammu and Kashmir Land Reforms Act, 1960.
- (ii) It extends to the whole of the Azad Jammu and Kashmir Territory.
- (iii) It shall come into force at once.

2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context.

- (i) 'Commission' means the Azad Jammu and Kashmir Land Commission constituted under Section 4 of this Act.
- (ii) 'Economic holding' means an area of fifty acres.
- (iii) 'Jagir' includes -.
 - (a) any grant of land by way of Jagir ;
 - (b) any grant of money made or continued by or on behalf of the State which purports to be or is received out of land revenue ;
 - (c) any assignment or release of land revenue;
 - (d) any estate in land created or affirmed by or on behalf of the State which carries with it the right to receive or collect land revenue or any portion thereof ;
 - (e) any assignment of dues recoverable, but for such assignment, by Government.
- (iv) 'Land' means land, including evacuee land, which is not occupied as the site of a town, village, factory or industrial establishment, and is occupied or has been or can be let for agricultural purposes or for purposes allied or subservient to agriculture, such as forests or pastures, or live-stock or poultry farms, and includes also the sites

of buildings and other structures on such lands.

- (v) 'Orchard' means land under fruit trees, planted to a density of 25 trees or more per acre grown and maintained by human effort ;
 - (vi) 'Prescribed' means prescribed by rules made under this Act;
 - (vii) 'Subsistence holding' means an area of twelve and a half acres of land in the Azad Jammu and Kashmir Territory : provided that for purposes of Sections 22 and 24 a subsistence holding shall mean such. holding made up of an area or areas comprised within a particular estate or 'mauza' or deh" and not made up of the total area owned by a person and spread over more than one village or district.
3. **Act to override other laws, etc.:-** The provisions of this Act and any rule or order made thereunder, shall have effect notwithstanding anything to the contrary in any other law, or in any order or decree of court or other authority, or in any rule of custom or usage, or any contract, instrument, deed or other document.

PART - II

CONSTITUTION OF LAND COMMISSION & POWER

TO MAKE RULES

4. **Constitution of land Commission and its Powers:-**
- (i) For carrying out the purposes of this Act, a Commission, to be called the Azad Jammu and Kashmir Land Commission, shall be constituted, consisting of the ¹[*]Additional Financial Commissioner, Azad Jammu and Kashmir Government, who shall ex-officio be its Chairman and not more than three members to be appointed by him.
 - (ii) The Commission shall have all the powers necessary for the implementation of this Act.
 - (iii) The Commission may nominate one of its members to be the Land Commissioner who, subject to such directions as may from time to time be given by the Commission, shall be responsible for the implementation of this Act.
 - (iv) The Commission may set up organization and appoint officers, authorities and persons, and

1In Sec.4 the word "Additional" deleted by The Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1985 (Act XI of 1985) dt.23-10-1985

confer powers on, and assign duties to them.

- (iv) Where any matter is not provided for in this Act or any difficulty arises in giving effect to the purposes of this Act, the Commission may, by order notified, in the official gazette, make such provision in respect thereof as it thinks fit, and such order shall be deemed to form part of this Act and have effect accordingly.
- (vi) Where any dispute arises in carrying into effect the provisions of this Act, such dispute shall be referred to the Commission whose decision thereon shall be final.

5. **Delegation of powers:-** The Commission may, by notification in the official gazette, direct that , the Powers exercisable by it under this Act may, subject to such conditions, if any, as may be specified in the Notification, be exercised also by any of its members or officers or authorities subordinate to it :

Provided that the Commission shall not delegate its powers under sub-section 2 of Section 7 to an officer below the rank of a Commissioner.

6. **Power to make rules:-** The Commission may, with the previous sanction of the Government, make rules for carrying out the purposes of this Act, including rules on matters relating to or connected with the presentation, hearing and determination of appeals from, and applications for the revision and review of, order made under this Act.

PART III

RESTRICTIONS ON OWNERSHIP AND POSSESSION

7. **Certain transfers void:-** (1) Save as otherwise provided in this Act, the transfer of any land, and the creation of any right or interest in, or encumbrance on, any land, made in any manner whatsoever on or after the 24th day of January, 1959, by any person holding immediately before that date an area of five hundred acres of cultivated land, or one thousand acres of un-cultivated land, (one acre of cultivated land being equal to two acres of un-cultivated land) or more shall be, and shall be deemed always to have been, void, and the land so transferred or encumbered shall be deemed to have been owned or possessed, as the case may be by the person by whom it was owned or possessed immediately before that date.
- (2) If any question arises whether any transfer or other transaction is or is not void under sub-section (1) the decision of the Commission thereon shall be final.

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10. **Special provision for female dependents:-** (1) The Commission may, on the application of an existing owner holding ancestral land allow him to transfer by way of gift 50 kanals to each of his female dependents, but not exceeding 150 kanals in all :

Provided that the Commission is satisfied that the dependent in question is a person who was entitled to inherit her share out of the property in question at the time when succession opened but for reasons of custom or usage become dependent on the applicant instead of inheriting the property in her own name.

(2) Resumption or excess areas as provided in Part IV shall not be delayed or postponed because of the pendency of an application under sub-section (1).

1 Omitted by The Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1993 (Act XXI of 1993) dt.10-05-1993. The original extract of sec.8 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"8. **Limits on individual holdings:-** Save as otherwise provided in this Act, no person shall, at any time, own or in any capacity possess land in excess of five hundred acres of cultivated land, or one thousand acres of uncultivated land, or cultivated and uncultivated land the aggregate area of which exceeds five hundred acres of cultivated land, one acre of cultivated land being reckoned as equivalent to two acres of uncultivated land, and any reference in this Act to an 'acre' of cultivated land shall be construed accordingly.

(2) In calculating the area owned by a person the area in respect of which his occupancy tenants finally become the owners in accordance with the provisions of this Act, shall be excluded from the total of his holding and shall be included in the total holding of the occupancy tenants as owners."

2 Omitted by Ibid. The original extract of sec.9 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"9. **Wakfs:-** (1) Land included in any 'wakf' of the nature described in Section 3 of the Musalman Wakf Validating Act 1913 (VI of 1913) shall, on the commencement of this Act cease to form part of such wakf.

(2) Such land, except the portion, if any, already specifically dedicated for a religious, pious or charitable purpose, shall be appropriated as follows :-

(a) If the donor is alive and is the sole beneficiary of the wakf, the land shall revert to him.
(b) If the donor is alive and is not the sole beneficiary and there are other beneficiaries besides him, then such portion of the land as is reserved under the 'wakf' for the benefit of the donor shall revert to him, and the remaining portion of the land shall be divided among the other beneficiaries, non-heirs receivings share in proportion to the benefit reserved for them under the 'wakf' and heirs according to the law of inheritance, as if succession had opened on the commencement of this Act.

(c) If the donor is dead, the land shall be dividing among the beneficiaries, non-heirs receiving share in proportion to the benefit reserved for them under the 'wakf' and heirs according to the law of inheritance, as if succession had opened on the day the donor died.

(d) If a benefit derivable from such land, not being a dedication of a specified land, is reserved under the 'wakf' for religious, pious, or charitable purpose, the Commission may, in lieu of the benefit, allow for such purpose such portion of the land to be retained or such compensation to be paid, as it thinks fit, and utilize the land or a portion thereof, as the case may be, in accordance with the provisions of this Act.

(3) No land shall, on and after the commencement of this Act, be included, in or subjected to any 'wakf' of the nature as is referred to in sub-section (1).

(4) A person who comes into ownership or possession of land by virtue of this Section shall be subject to the provisions of this Act as an existing owner.

Explanation:- A 'beneficiary' in this Section does not include a future beneficiary to whom no present advantage accrues under the wakf."

(3) In case the excess area of the applicant has been resumed and utilised before the decision of the application, the dependent, for whose benefit, the application is made, may be given out of other resumed land an area of land equivalent to what she would have received under sub-section (1).

(4) An area of land equivalent to the land given to the dependent under sub-section (3) shall be deducted from the land of the applicant for which compensation is payable to him.

11. **Bodies Corporate:-** (1) Where any person had, before the commencement of this Act, acquired any share in any company within the meaning of the Companies Act, 1913 (VII of 1913), or in any Cooperative Society registered under the Cooperative Societies Act, 1912 (XII of 1912), or under any other law for the time being in force, by transferring to such company or society any land, or if acquisition of shares by him in such company or society is otherwise wholly or partly relateable to such transfer of land, then the shares so acquired or relateable, together with any unpaid interest or profits accrued thereon, shall, on such commencement, vest in the company or society, as the case may be, and the land shall revert to that person.

(2) Where any such company or society as aforesaid owns or possesses land which has not reverted under sub-section (1), such land shall, for the purposes of this Act, be deemed to be owned or possessed not by the company or society, but separately and individually by its shareholders, the share of each share-holder in the land being in the same proportion as the paid up value of his share bears to the total paid up capital of the company or society.

(3) Where any person to whom land reverts under sub-section (1), whose share in land is determined under sub-section (2), does not own or possess any other land, the land so reverted or the share so determined, shall by itself be subject to the other provisions of this Act as if it were owned or possessed by that person immediately before the commencement of this Act, and where any such person as aforesaid owns or possesses any other land, the land so reverted or the share to be determined shall be added to that other land for the purpose of applying the other provisions of this Act.

(4) If as a result of the application of the provisions of this Act any portion of the land to which this Section applies vests in Government and such portion is not specifically demarcated already, the Commission may

make such order in respect of its demarcation and partition, as it may think fit.

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13. **Choice of area:-** If after exercising the option to gift under Section 10 a person is left in ownership or possession of an area greater than five hundred acres of cultivated land he shall select out of his holding the area which he is entitled to retain, and, in doing so, shall, as far as possible, select compact blocks.

PART IV

DECLARATION OF AREAS, RESUMPTION AND VESTING OF EXCESS LAND IN GOVERNMENT AND COMPENSATION THEREFORE

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4[***]16. **Scale and payment of compensation:-** (1) In addition

¹¹Omitted by The Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1993 (Act XXI of 1993) dt.10-05-1993. The original extract of sec.12 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"12. **Share in shamilats:-** (1) A person owning or possessing a share in a shamilat shall not be entitled to own or possess any such share if after the application of the provisions of Sections 8, 9 and 10 he is entitled to retain outside the shamilat an area of five hundred acres of cultivated land or one thousand acres of uncultivated land.

(2) In case the area retained by such person is less than five hundred acres of cultivated land or one thousand acres of uncultivated land, he shall be entitled to so much share in the shamilat as would provide him with an area equivalent to five hundred acres of cultivated land or one thousand acres of uncultivated land."

2 Omitted by Ibid. . The original extract of sec.14 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"14. **Power to obtain declaration:-** The Commissioner may, by order published in the official Gazette, direct persons who own or possess land in excess of five hundred acres of cultivated land or its equivalent, to submit to such authority, in such manner and form, any by such date, as may be specified in the order, declarations in respect of areas owned or possessed by such person, areas gifted or received by gift on or after the 24th day of October, 1947, areas transferred or alienated by them on or after the 24th day of January, 1959, areas selected for retention by them, and such other information as the Commissioner may require."

3 Omitted by Ibid. The original extract of sec.15 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"15. **Resumption and vesting in Government of excess land.-** (1) Land in excess of the area permissible for retention under part III shall vest in and be resumed by Government free, from encumbrance or charge.

(2) Any encumbrance or charge, which existed on any land resumed under sub-section (1) shall be deemed to have been transferred to the land retained under part III, and also to the compensation payable under Section 16 and 17 to the extent necessary."

4 Omitted by Ibid. The original extract of sec.16 of The Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

"16. **Scale and payment of compensation:-** (1) In addition to any compensation which may be payable under Section 17, compensation for land resumed under Section 15, shall be paid according to the following scale, that is to say :-

- (a) for the first 200 kanals at the rate of 75 times the land revenue of the land resumed;
- (b) for the next 400 kanals at the rate of 60 times the land revenue ;
- (c) for the next 800 kanals at the rate of 45 times the land revenue,
- (d) for the next 1600 kanals at the rate of 30 times the land revenue ;
- (e) for the balance at the rate of 15 times the land revenue:-

Provided that the maximum compensation for the resumed land shall not exceed Rs. 75/- per kanal in any case.

(2) Where any land is not assessed to land revenue the Land Commission shall determine the rate of its land revenue for purposes of assessment of compensation and in cases where the land is recorded as 'ghair mumkin', or uncultivable, the rate of land revenue for the purposes of determining the compensation shall be deemed to be one half of the lowest rate of land revenue in that assessment circle.

(3) Where the land to be resumed is covered by forests owned by the land-owner the compensation for the land so resumed shall be determined by the Land Commission in consultation with the Forest Department of the Azad Jammu and Kashmir

to any compensation which may be payable under Section 17, compensation for land resumed under Section 15, shall be paid according to the following scale, that is to say :-

- (a) for the first 200 kanals at the rate of 75 times the land revenue of the land resumed;
- (b) for the next 400 kanals at the rate of 60 times the land revenue ;
- (c) for the next 800 kanals at the rate of 45 times the land revenue,
- (d) for the next 1600 kanals at the rate of 30 times the land revenue ;
- (e) for the balance at the rate of 15 times the land revenue:-

Provided that the maximum compensation for the resumed land shall not exceed Rs. 75/- per kanal in any case.

(2) Where any land is not assessed to land revenue the Land Commission shall determine the rate of its land revenue for purposes of assessment of compensation and in cases where the land is recorded as 'ghair mumkin', or uncultivable, the rate of land revenue for the purposes of determining the compensation shall be deemed to be one half of the lowest rate of land revenue in that assessment circle.

(3) Where the land to be resumed is covered by forests owned by the land-owner the compensation for the land so resumed shall be determined by the Land Commission in consultation with the Forest Department of the Azad Jammu and Kashmir Governments.

(4) Compensation payable under this Section shall be paid in such manner as may, be provided by the Government.

17. **Permanent installations and structures:-** (1) Permanent installations and structures on land resumed under Section 15 shall not be removed, dismantled or demolished, but shall vest in Government alongwith such land.

(2) Compensation on the basis of actual cost incurred, subject to depreciation, shall be payable to the owner for such installations and structures in the same manner as

Governments.

(4) Compensation payable under this Section shall be paid in such manner as may, be provided by the Government."

provided in Section 16.

PART V

SALE AND UTILISATION OF RESUMED LAND

18. **Sale of resumed land:-** (1) Land resumed under Part IV shall, in the first instance, be offered for sale, on such terms and conditions as may be prescribed, to the tenants who are in cultivating possession of it, and any such land not sold to such tenants shall be offered for sale to such other persons on such terms and conditions as may be considered suitable by the Commission.
- (2) Interest may be charged on the price payable under sub-section (1) at such rate or rates as may be prescribed.
19. **Fund for payment of compensation:-** The proceeds realised under Section 18 shall form a separate fund to be held and administered by the Commission and shall be utilised for the payment of compensation referred to in Part IV, payment of interest, development of resumed land, liquidation of bad debts, payment of administrative charges, and for such purposes as the Commission may direct.

PART VI

ABOLITION OF CERTAIN INTERESTS

20. **Jagirs:-** (1) All Jagirs, of whatever kind and by whatever name described, subsisting immediately before the commencement of this Act shall, on such commencement; stand abolished, and, save as hereafter in this Section provided, any right, interest or estate granted, assigned, released, created or affirmed by any such Jagir shall revert to Government free from any encumbrance or charge, and no compensation shall be claimed by or paid to any person affected thereby.
- (2) (a) The Government may, if it considers necessary so to do in public interest, on the recommendation of the Commission, give a monetary grant to such person as have been in receipt of Jagirs in cash if they have no adequate means of livelihood : Provided that in no case shall any grant be made to persons who are enjoying 'maufis' In the shape of assignment of land revenue, in lieu of such muafi.
- (b) The Commission shall, with the previous approval of the Government, determine the general principles upon which recommendations for a monetary grant under this subsection shall be based.

(3) If a Jagir is, wholly or partly in the form of a grant of land, the person in favour of whom the jagir stands, shall be entitled to retain, as full owner, the whole of such land if the area, together with any other area which he may own or possess in any other capacity, is equal to or less than five hundred acres of cultivated land, or equivalent thereto, and if the area exceeds that limit then such portion, not exceeding the limit, as he may select, and the excess land shall revert to Government free from any encumbrance or charge, without payment of any compensation, and shall be disposed of by the Government in the manner provided by or under this Act.

(4) Land retained under sub-section (3) shall be subject to the same assessment of land revenue, water rate and other dues as land of similar nature in the vicinity.

(5) If any such relative or dependent of a person in whose favour a jagir, in the form of a grant of land subsisted, as was receiving from such person maintenance in the form of money or otherwise, is, as a result of the operation of this Act, left without any land or other source of income, the Commission may, on such terms and conditions as may be prescribed, provide him, without any payment, with an area of land not exceeding the area of a subsistence holding.

(6) If Government considers it necessary so to do in the public interest, it may, subject to such conditions as it may deem fit to impose, grant to a religious, charitable, or educational institution, in whose favour a jagir subsisted, a monetary grant for a specified purpose to be used in the prescribed manner.

(7) No jagir shall be created after the commencement of this Act.

21. The abolition of Jagirs will include abolition of all interests in forests or rights to receive any tax or fee vested in a Jagirdar as such under the, provisions of any law, rule or order for the time being in force.

PART VII

IMPARTIBILITY AND RESTRICTIONS ON ALIENATION OF HOLDINGS

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1 Omitted by the Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1971 (Act X of 1971). The original extract of sec.22 is reproduced as under:

“22. **Restrictions on partition of joint holdings:-** (1) A joint holding with an area equal to or less than that of a subsistence holding shall, in no circumstance, be partitioned.

(2) A joint holding larger than subsistence holding shall not be partitioned, if partition has the effect of

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dividing the holding into such parts that any one part added to the area already owned or possessed by the individual 'co-sharer' to whom that part would go becomes less than the area of a subsistence holding.

(3) A joint holding with an area equal to or greater than that of an economic holding shall not be partitioned in such a way as to reduce any part thereof to an area less than a subsistence holding.

(4) Partition of land in contravention of the provisions of this Section shall be void.

Exceptions:-

(i) Orchards may be partitioned provided that such partition does not have the effect of reducing any part thereof to less than one acre.

(ii) Partition of areas acquired for the purpose of construction of houses, shops or industrial concerns would be permissible."

¹Omitted by Ibid. The original extract of sec.23 of Azad Jammu & Kashmir Land Reforms (Amdt.) Act, 1960 is reproduced as under:

"23. **Management of impartible joint holdings:-** (1) A joint holding the partition of which is not permissible under Section 22 shall continue to be managed as a single unit.

(2) In the event of a dispute regarding the management of any such joint holding as aforesaid ;

(a) the 'co-sharers' may select one of themselves, by drawing of

lots or otherwise, who will manage, on their behalf, the holding, and from whom they will receive their shares of the incomes ; or

(b) if the 'co-sharers' cannot so select, they may request the Collector of the District in which such holding is situate to nominate one of the 'co-sharers' to manage as aforesaid.

(3) If in the opinion of the Commission, no arrangement for joint management between the 'co-sharers' is possible, the Commission may acquire the holding on payment of such compensation as may be determined in the prescribed manner.

Explanations.- If a 'co-sharer' is for the time being a minor or lunatic, his guardian shall be treated as a "co-sharer" for the purpose of this Section."

[2] Sec.24 was subs./omitted two times. The original extract of sec.24 of Azad Jammu & Kashmir Land Reforms (Amdt.) Act, 1960 is reproduced as under:

"24. **Restrictions on alienation of holding:-** (1) No person owning more than the area of a subsistence holding shall be allowed to alienate by sale, mortgage, gift or otherwise any portion of his holding which may reduce the size of his holding to an area less than the area of subsistence holding;

Provided that such a person may alienate his entire holding.

(2) No person owning an area equal to or less than a subsistence holding shall be allowed to alienate by sale, mortgage, gift or otherwise any part of his holding :

Provided that he may alienate his entire holding.

Explanation:- For the purposes of sub-sections (1) and (2) of this Section an area under a house shall not be considered as a part of the holding and may be retained by the alien or if he so desires, even though the entire holding is intended to be alienated.

(3) Notwithstanding anything contained to the contrary in sub-sections (1) and (2) of this Section a person holding land more than, equal to, or less than a subsistence holding may alienate by way of gift or will a portion of his holding in favour of descendants of his predeceased child to an extent not exceeding one-third of his holding.

(4) Any alienation made in contravention of the provisions of this Section shall be void."

A-Subs. by the Azad Jammu and Kashmir Land Reforms (Amdt.) Act 1961 (Act V of 1961) dt. 19-7-1961. The original extract of proviso of subsec.(1) of section 24 of The Azad Jammu and Kashmir Land Reforms Act, 1960 is reproduced as under:-

PART VIII
GRANT OF PROPRIETARY RIGHTS TO
OCCUPANCY TENANTS

25. (1) Notwithstanding anything contained in any law for the time being in force, including the law relating to tenancies or any rule having the force of law or any agreement between the parties or persons claiming through them or any custom or usage, no person shall, after the ¹['coming into force of this Act'], acquire or have occupancy rights or be deemed to have acquired or to have had occupancy rights in any land under any enactment or contract or any decree or order of any Court or other authority and the existing occupancy rights in respect of all lands, other than lands owned by Government, shall be extinguished and shall be deemed to have been extinguished, and the land comprised in a tenancy so extinguished shall vest as hereinafter provided.
- (2) An occupancy tenant, who at the time of the coming into force of this Act, occupies any land as such shall become owner as under :-
- (a) of the entire land comprised in his tenancy without payment of any compensation where he pays no rent therefore beyond the amount of the land revenue, and rates and cesses for the time being chargeable therefore;
- (b) of such portion of land comprised in his tenancy without payment of any compensation as corresponds to his share of the produce, where he pays rent in the form of a share of the produce ; and of the remaining portion on payment of

““Provided that such a person may alienate his entire holding.”

B-Omitted by by the Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1971 (Act X of 1971).

[1] For the figures, letters, words and comma '4th day of September, 1954 subs. By 'coming into force of this Act' by the Azad Jammu and Kashmir Land Reforms (Amdt.) Act 1966 (Act II of 1966) dt. 29-11-1966. The original extract of subsec.(1) of section 25 of The Azad Jammu and Kashmir Land Reforms Act, 1960 is reproduced as under:-

“25. (1) Notwithstanding anything contained in any law for the time being in force, including the law relating to tenancies or any rule having the force of law or any agreement between the parties or persons claiming through them or any custom or usage, no person shall, after the 4th day of September, 1954, acquire or have occupancy rights or be deemed to have acquired or to have had occupancy rights in any land under any enactment or contract or any decree or order of any Court or other authority and the existing occupancy rights in respect of all lands, other than lands owned by Government, shall be extinguished and shall be deemed to have been extinguished, and the land comprised in a tenancy so extinguished shall vest as hereinafter provided.”

compensation by him to the landlord at eighty times the land revenue of the said remaining portion, of the tenancy ;

- (d) of the entire land comprised in his tenancy on payment of compensation to the landlord at 20 times the annual rent including land revenue and rates and cesses within one year from the date¹[on which he is informed by the competent revenue Officer of the amount of compensation as determined under sub-section (6) payable by him'], where he pays rent only in cash ;

- ²[(d) 'Of such portion of the land comprised in his tenancy without payment of any compensation as corresponds to his share of the produce, where he pays rent partly in cash and partly in kind, and of the remaining portion on payment of compensation by him at eighty times the land revenue of the said remaining portion of the tenancy plus twenty time the cash rent paid by him'.]

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- (3) Any occupancy tenant acquiring land in accordance with the provisions of sub-section (2) shall acquire it free from any encumbrance created in respect of that land by the landlord, and, notwithstanding any provision of any law for the time being in force to the contrary, such encumbrance shall become the exclusive liability of the landlord.

- (4) If a tenant fails to pay the compensation to the landlord within the period ⁴[***] prescribed in clauses (c) and (d) of sub-section (2) of this Section, the rights of occupancy on payment of such compensation by the landlord to the tenant, shall be extinguished and shall vest in the landlord and he shall be entitled to the possession thereof free from any encumbrance or lease

¹ In subsec. (2), in clause (c) of sec.25 for the words 'of the commencement of this Act' the words 'on which he is informed by the competent revenue Officer of the amount of compensation as determined under sub-section (6) payable by him' subs. By the Azad Jammu and Kashmir Land Reforms(2nd Amdt.) Act, 1972 (Act VII of 1972).

² Subs. by called the Azad Jammu and Kashmir Land Reforms (Amdt.) Act 1963 (Act II of 1963) dt. 05-2-1963. The original extract of clause (d) of subsec.(2) Of sec. of The Azad Jammu and Kashmir Land Reforms Act, 1960 is reproduced as under:-

“(d) of the entire land comprised in his tenancy on payment of compensation to the landlord at 20 times the annual rent (consolidated cash rent plus produce rent) including the land revenue, and rates and cesses within one year from the date of commencement of this Act, where he pays rent partly in cash and partly in kind.”

³ Omitted by Ibid. The original extract of Explanation at the end of clause (d) of subsec.(2) Of sec. of The Azad Jammu and Kashmir Land Reforms Act, 1960 is reproduced as under:-

“**Explanation:-** Produce rent shall be commuted into cash rent on the basis of the yearly average of previous five years' produce of that kind of land in the assessment circle in which the land is situated, multiplied by the average price of each type of produce for the same period”

⁴ The word “of one year as” omitted by By the Azad Jammu and Kashmir Land Reforms(2nd Amdt.) Act, 1972 (Act VII of 1972).

created by the tenant.

(5) In the case of an occupancy tenant falling under clause (b) of sub-section (2) of this section, if the tenant fails to pay the compensation to the landlord within one year from the date ¹[on which he is informed by the competent Revenue Officer of the amount of compensation as determined under sub-section (6), payable by him] the right of occupancy shall be extinguished with respect to that portion of the tenancy which shall vest in the landlord without any compensation and he shall be entitled to the possession thereof free from any encumbrance or lease created, by the tenant.

(6) The amount of compensation to be paid by a tenant to the landlord in accordance with the provisions of this section ²[shall be determined by the competent revenue officer and shall be paid] in lump-sum within the prescribed period by a deposit in the Government treasury under the head 'Land Revenue Compensation', and on receipt of the amount of compensation the Commission shall get the necessary mutations effected through the concerned revenue officers and allow the land-lord to draw the amount.

Explanation:- For the purposes of this Section, the expression 'landlord' shall include the Custodian of Evacuee Property where

the landlord is an evacuee.

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(a) An occupancy tenant who has acquired the proprietary rights under the provisions of Section 25 (hereinafter called the new land owner) shall also be entitled without payment of any compensation to a share in the Shamilat Deh in proportion to the land in respect of which he has acquired such rights;

b) A new land owner who is in possession of Shamilat land to the extent of his share as calculated under clause (a) above shall not be dispossessed therefrom;

c) A person who was a land owner before the enforcement of Land Reforms Act 1960, hereinafter called an old land owner, and who owns land less than

1 In Subsec. 5 of sec.25 for the words 'of the commencement of this Act' the words 'on which he is informed by the competent Revenue Officer of the amount of compensation as determined under sub-section (6), payable by him' subs. By the Azad Jammu and Kashmir Land Reforms (2nd Amdt.) Act, 1972 (Act VII of 1972).

2 In Subsec.(6) of section 25 for the words 'shall be paid' the words 'shall be determined by the competent revenue officer and shall be paid' by Ibid.

3 Add. By The Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1972 (Act VI of 1972)

hundred kanals including his share in Shamilat shall be entitled to retain a further share in Shamilat provided that he is in possession and his total holding does not exceed one hundred kanals;

- d) An old land owner who owns less than fifty kanals including his share in the Shamilat shall be entitled to a further share in shamilat provided his total holding does not thereby exceed fiftykanals;
- e) The word "possession" hereinbefore mentioned, shall mean possession of Shamilat land as recorded in khasra Girdawari pertaining to the harvest of Rabi,1971.

Explanation:-

Nothing hereinbefore mentioned shall derogate or affect the rights of share in Shamilat of old owners, in proportion to his holding left after the enforcement and implementation of the Land Reforms Act, 1960.]

1[***]

- 26. Notwithstanding anything contained in Section 25, an occupancy tenant shall not be entitled to the benefit of that Section until he clears the arrears of rent due from him to the landlord since the inception of the Azad Jammu and Kashmir Government within a time to be fixed by the Land Commission which, shall not exceed two years.
- 27. (1) Notwithstanding anything contained in the Settlement Rules of Poonch District, all persons entered as 'Haqi-assamidars' of land in the revenue papers of that district shall be deemed u be proprietors of such land and shall be entered as such in the revenue records by the concerned revenue authorities provided that where there are any occupancy tenants under such 'Haqi-assamidars' they shall, acquire proprietary rights 'Haqi-assamidar' landlords.

1 Sec.25-B was ins/omitted two times. The original extract of Sec.25-B of Azad Ins. By The Azad Jammu and Kashmir Land Reforms(Amdt.) Act,(Act XIII) is reproduced as under:

"25-B. (i) Where the Landlord is a non-evacuee and occupancy tenant is an evacuee, and the Land in the possession of Landlord, he shall exercise all ownership rights, free of any compensation over such Land and all the existing tenancy rights therein shall be extinguished;

(ii) Where the Landlord is a non-evacuee and the occupancy tenant is an evacuee, and the Land is allotted or not, to a refugee of any other person, the possession of such Land shall be restored to the Landlord and compensation, if any, shall be paid to the allottee as determined by the Custodian;

(iii) Where the landlord is an evacuee and the land in tenancy has been in continuous possession of an old tenant since April, 1947, or before, he shall get ownership rights over such land, after the payment of compensation as determined in accordance with the provisions of section 25 of the said Act, to the Custodian within the period of one year when he is directed to make such payment by the competent authority as provided under the said Act".

A.Omitted by Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1975 (Act VII of 1975) dt. 24-07-1975.

(2) Where rent is payable to an occupancy tenant and to a landlord by a sub-occupancy tenant the sub-occupancy tenant shall become the owner as if he was an occupancy tenant directly under the landlord.

(3) In cases referred to in sub-section (2), the occupancy tenant and the landlord will share the cash compensation or the land ordinarily falling to the share of the landlord in proportion to the rent or the share of the produce received by each of them.

28. (1) Nothing contained in Sections 25, 26 and 27 of this Act shall apply to cases :

¹[(b) Where the occupancy tenants are evacuees and the landlords are non-evacuees under the law relating to the Administration of Evacuee Property Act, or]

(g) where both the occupancy tenants and landlords are evacuees.

(2) In cases where the landlords are evacuees and the occupancy tenants are non-evacuees and compensation is payable in cash the amount of such compensation shall be credited to the Government in the name of the Custodian within the prescribed period of one year.

PART IX

MISCELLANEOUS

29. **Transitional :-** Until any order is made under this Act for the resumption or utilization of land, no tenant shall be ejected unless it is established in a Revenue Court that he has:-

- (a) failed to pay rent ; or
- (b) used the land in a manner which renders it unfit for the purpose for which it was let ; or
- (c) failed to cultivate the land without sufficient cause, or
- (d) sub-let his tenancy ; or
- (e) failed to cultivate the land, where rent is payable in kind in the manner or to the extent customary to the locality ; and in the meantime, subject to the provisions of this Act. the landlord and the tenant

¹Sec.28 subsec.(1) clause (a) was ins./omitted two times. . The original extract of clause (a) subsec. (1) of sec.28 Of the Azad Jammu & Kashmir Land Reforms Act, 1960 is reproduced as under:

“a) where the occupancy tenants are evacuees and the landlords are non-evacuees under the law relating to the administration of evacuee property ; or”

Omitted By The Azad Jammu and Kashmir Land Reforms (Amdt.) Act 1974 (Act XIII of 1974).

Ins. By The Azad Jammu and Kashmir Land Reforms (Amdt.) Act, 1975 (Act VII of 1975) & thereafter clause (a) of subsec.(1) shall be renumbered as clause (b).

shall continue to enjoy the rights and discharge the obligations as heretofore.

Explanation:- In this Section a 'tenant' means a person who cultivated his tenancy in 'Kharif' 1958 or 'Rabi' 1958-59, whichever is later.

30. **Respective rights of landlord and tenant to produce:-**

- (i) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.
- (ii) A tenant shall be entitled to tend, cut and harvest the produce of his field in due course of husbandry without any interference on the part of his landlord.
- (iii) Except when the rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce but in the case of foodgrains and oilseeds that have to be thrashed, he shall not remove the produce from the thrashing-floor until the rent payable by him for the preceding agricultural year has been paid to the landlord.
- (iv) Where rent is taken by division of the produce:
 - (a) the tenant shall be entitled to the exclusive possession of the whole produce but shall not be entitled to remove it from the thrashing-floor until it is divided ;
 - (b) no sooner the produce is ready for division on the thrashing-floor, any Assistant Collector of 2nd Grade, specially empowered in this behalf, on his own accord, or on the application of either the tenant or the landlord, shall himself, or through any Revenue Officer not below the rank of a Field Qanungo, or a Police officer not below the rank of a Station House Officer, divide the produce on the thrashing-floor ;
 - (c) if the tenant or landlord removes any portion of the produce in such a manner as to prevent the due division thereof, the officer conducting the division of the produce may enter the building or the premises as the case may be, where the produce is kept and divide the produce there ;
 - (d) the landlord and the tenant shall be

- entitled to be present at, and take part in, the division of the produce ;
- (e) when the produce has been divided, the landlord and the tenant shall be entitled to the possession of their respective shares immediately.
31. All the outstanding amounts due from any person in accordance with the provisions of this Act, whether as compensation or otherwise, shall be recovered as arrears of land revenue under the Land Revenue Act.
32. **Bar of jurisdiction:-** (1) No provision of this Act or of any rules or orders made thereunder shall be called in question in any Court including the High Court or before any authority other than an authority appointed under this Act, and no such Court or authority shall have jurisdiction in respect of any matter which the Commission or an officer acting under the authority of the Commission is empowered to determine.
- (2) No such Court or authority as aforesaid shall be competent to grant any injunction or other order in relation to any proceeding before the Commission or before any officer exercising any power or discharging any function under this Act or the rules or orders thereunder, or in relation to anything done or intended to be done by or at the instance of the Commission or such officer.
33. **Indemnity:-** No suit or other legal proceedings shall lie against Government or against any person in respect of anything which is in good faith done or intended to be done under this Act.

PART X

PUNISHMENT

34. **Offences and penalty:-** Whoever contravenes or fails to comply with any of the provisions of this Act or the rules or orders made thereunder, or fails to make any declaration or willfully furnishes incomplete or false information, or tempers with any records relevant to the purposes of such provisions, or obstructs any person in the discharge of his duties or functions under such provisions, shall be punished with rigorous imprisonment which may extend to seven years and with fine.

PART XI

SAVINGS AND REPEALS

35. The Azad Kashmir Grant of Proprietary Rights Act, 1954, is hereby repealed subject to the provisions of this

Act¹[and shall be deemed to have been so repealed on the 4th day of September, 1954.]

²[35-A. All actions taken by the Land Commission constituted under the Azad Jammu and Kashmir Land Reforms Act, 1960, shall be deemed to have been validly done, taken, initiated under this Act.]

1 Add.by the Azad Jammu and Kashmir Land Reforms (Amdt.) Act 1966 (Act II of 1966) dt. 29-11-1966.

2 Ins. By The Azad Jammu & Kashmir Land Reforms (Amdt.) Act, 1985 (Act XI of 1985) dt.23-10-1985