

PUNJAB TENANCY ACT, 1887

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It came into force on 20th Objects and Retb-sons, see *'Punjab Gazette.' 1929, V, p. and for Report of the Select Committee, see ibid. 1929, pt. V. pp. 25-26 For Proceedings in Council, see the Punjab Legislative Debates, Vol, *11, VOL X ill. p. 25. came inio *Por Statement of Objects and Reasons *'Punjab Gazette,' 1933' pp, and Proceedings in Council. see the Punjab Gazette Vol. XX] [J. pp. 1240—52. It came into force on December, Punjab Government Notification No. 5th October

1933. Statements of Objects and see "Punjab Gazette", Extraordinary, dated 8th 1938, part V, pp.7-8, For Report of the Select Committee. 43—45 and proceedings in Assembly. •see Punjab Legislative Assembly Debates, 1938, VOL V. pp. 440 *45. pp. 163—174. Statement of Objects and Reasons. see Punjab Gazette. [Extraordinary]. 1938, page 869. or and Reasons, see Punjab Gazette Extraordinary). 1938, 24 TENANCY [1887 : Act x VI ACT xvi or 1887. ! THE PUNJAB TENANCY ACT, 1887.1 [23rd September, 1887.] An Act to amend the Law relating to the Tenancy of Land in the Punjab. WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab ; it is hereby enacted as follows:— CHAPTER I. PRELIMINARY. Section 1. (1) This Act may be called the Punjab Tenancy and Commencement Act, 1887. Section 2. (2) It extends to the Union Territory of Chandigarh. (3) It shall come into force on such day as the [State] Government, with the previous sanction of the [Central Government] may by notification appoint in this behalf. 2. [Power to make rules in anticipation of commencement.] * * * * * 4. In this Act, unless there is something repugnant in the subject or context— (1) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968. for the word "Provincial" by the Adaptation of Laws Order. 1950. "Substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937. Repealed by the Repealing and Amending Act, 1891 (XII of 1891). Section 2(1). Repealed by the Repealing and Amending Act. 1891 (XII of 1891 : Act TENANCY 25 and includes the sites of buildings and other structures on such land (?) "pay" with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver," and "render," with their grammatical variations and cognate expressions. (3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him (4) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable : (5) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person ; but it does not include— (a) an inferior landowner; or (b) a mortgagee of the rights of a landowner, or (c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or (d) a person who takes from the [Government] a lease of unoccupied land for the purpose of subletting it (6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land (7) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord, respectively. (8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions (9) "estate" "landowner" and "holding" have the meanings, respectively assigned to those words in the Punjab Land-Revenue Act, 1887 'Substituted for the word 'Crown' by the Adaptation of Laws 1950. 26 TENANCY [1887 : Act (IO) 'land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, includes— (a) any rate imposed in respect of the increased value of land due to irrigation, and (b) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the [Government] or to a person to whom the [Government] has the right to receive the payment : (11) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes— (b) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land-owners for the use of, or benefits derived from, such works as are referred to in section 20, clauses (i) and (j), of that Act; (c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873 ; (d) the zaildari and village officers' cesses; and (e) sums payable on account of village expenses (12) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force (13) "village-officer" means a chief headman, headman or patwari. (14)

"Revenue-officer" or "Revenue Court," in any provisions of this Act means Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision 'Substituted for the word • Crown' by the Adaptation Of Laws Order. *Repealed the Acan•nsiing Act, 1001 (XII of 1891). 1887 : Act xvrj (15) "jagirdar" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the '[Govern- ment] or by an officer of the '[Government] (16) "legal practitioner" means any legal practi- tioner within the meaning of the Legal Practitioners , Act, 1879' except a mukhtar : (17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the '[Central Government] may by notification appoint for any local area . (18) "notification" means a notification published by authority of the '[Central Government] in the Offi- cial Gazette : and (19) "improvement" means, with reference to a tenancy any work which is suitable 'to the tenancy and consistent with the conditions on which it is held by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution made directly beneficial to it. Explanation includes, among other things— (a) the construction of wells and other works for the storage or supply of water for agri- cultural purposes (b) the construction of works for drainage and for protection against floods (c) the planting of trees, the reclaiming, en- e!ming. levelling and terracing of land for agricultural purposes and other works of a like nature ; (d) the erection of buildings required for the more convenient or profit- able cultivation of a tenancy ; and the "Crown" Map of Laws Order. 1950, Central for the Government" by the ne- on State Concttr- rent Subjects) Order. 28 : Act (c) 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 and as durably their value ; But it does not include such clearances. embank. ments. leveilins. fnclosvres. temporary and water-channels as are made by tenants in the ordinary course of cultivation and v. ifhout any special tare, or any other benefit accruing to land from the ordinary operations of husbandry. E.rpiatr, tion work which tenancies may be deemed to be. with respect to each of them, an improvement. Est-planation III.—A work executed not an improvement if it substantially diminishes the value of any other part of his landlords property. t (28) CHAPTER 11 OF OCCUPANCY. 5. (1) A tenant— (a) who at the commencement of this Act has for more than two generations in the male line of descent through a grandfather or grand-uncle and for a period of not less than twenty years, been occupying land paying no rent therefor beyond the amount Of the land-revenue thereof and the rates and cesses for the time being chargeable there- on, or (b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act. has. since he ceased to be land-owner continuously occupied the land' or (c) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied to"ijtted by the India 'Ad'iptatinn o! Existing Ir,dIJ'l Order, 2 947. section 4 Provisions about Muqarridats hid t*' by Punjab Act X! Of 1925. Act XVII TENANCY 29 land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or (d) who being jagirdar of the estate or any part Of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jagirdar, occupied the land while he was jagirdar and has conti- nuously occupied it for not less than twenty years, has a right of occupancy in the land so occupied, un- less, in the case of a tenant belonging to the class specified in clause (c), the landlord proves that the tenant 'svas settled on land previously cleared and brought under cultivation by, or at the expense of, the founder. (2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable it may be presumed that he has fulfilled the of Clause (0) of sub-section (J). (3) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir and relationship, by the usage of a religious com- muni ty. A tenant recorded in a record of rights sanctioned by the '[Central Government) before twenty. ot other first day of October, 1868, as tenant having a right of having right occupancy in land which he has continuously occupied from the time Of the preparation of that record, shall Act, be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act. 7, If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by in him for other land belonging to the same landlord. the land taken in exchange shall be held to be

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing cupnney grounds other a right of occupancy on any ground other than the than those stated grounds specified in those sections.in Act. Right Of oeeu• 9. No tenant shall acquire a right of occupancy pnncy not to acquired hy mere by merc laps of time. lap'. ot time. Right Of occtr• 10. Tn the absense of a custom to the contrary, not to be by joint no one of several joint owners of land shall acquire a owner [n land right of occupancy under this Chapter in land jointlyv held in joint owned by them. ag-nershiP. Continuance ot existing 11. Notwithstanding anything in tho foregoing pancy right'. sections of this Chapter. a tenant who immediately• before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the followinz table shall. when this Act comes into force. be held to have. for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table:— PUNJAB TENANCY ACT, VIRST COLUMN ACT SECOND COLUMN Sub-section Section 5 5 6 8 Clatte (2) (4) Section 5 5 6 8 (d) 1887 Act TENANCY CHAPTER RENT. Rents generally 12, (1) The rent for the time being payable in res- rightn pect of a tenancy shall be the first charge on the lord arid to produce. produce thereof. (?) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course Of husbandarv without any interference on the part of his landloéd. (3) Except where rent is taken by division of the produce the tenant shall be entitled to the exclusive possession of the produce.' (4) Where rent is taken by division of the produce— (a) the tenant shall be entitled to the exclusive possession 01 the whole produce until it is divided; (b) the landlord shall be entitled to be present at, and take part in, the division oj the produce ; and (c) when the produce has been divided, the land-lord shall be entitled to the posses. Sion of his share thereof. (I) Where rent is taken by any of the follow- Commutation 13. and alteration ing methods, namely: — rent/ (a) by division or appraisement of the produce, (b) by rates fixed with reference to the nature of the crops grown,, (c) by a rate on a recognized measure of area, (d) by a rent in gross on the tenancy, or (e) partly by one of the methods specified in clauses (b) and (c) of this sub-section and partly by another or others of them. one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant. (2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant Whose rent is taken by any of the methods specified in clauses (b) and (c) of sub-section (1), or by the 32 TENANCY [1887 Act XVI method specified in clause (d) of that Sub-gection shall not be liable to pay for a tenancy rent at higher rate, or of a higher amount, as the cage may than the rate or amount payable in respect of the tenancy for the preceding agricultural year, Payments Ile Any person in possession of land occupied occupi without the consent of the landlord shall be liable of landlord. pay for the use or occupation of that land at the 01 rent payable in the preceeding agricultural year, if rent was not payable in that year, at such rate the Court may determine to be fair and equitable

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accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section. : Act TENANCY (3) Before making the division or appraisement the referee shall give notice to the landlord and the tenant Of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed ex parte. (4) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is. 19. (1) The result of the division or appraisement Procedure after shall be recorded and signed by the referee, and the appraisal record shall be submitted to the Revenue-officer. (2) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement. (3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit. (d) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied the applicant before the appointment of the referee subject to adjustment at the close of the proceedings

20. Where the rent of a tenant having a right of produce-rents of occupancy in any land is a share of the produce, or of ten. the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent : Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or the rent in or the land or part subject to provisions of this Act be enhanced to the share or rates, or with reference to the rent in gross, as the case may be paid by tenants, having a similar right of occupancy. for irrigated or flooded land Of similar description and with similar advantages. 21. When the land, or any part of the land, held Reduction rents referred to by a tenant having a right of occupancy to whom the in the last foregoing section applies ceases to be irrigated or going : Act flooded, the Rent payable in of the land may to share or rate or with reference to rent in case may paid by tenant having a similar right of occupancy for unirrigated unflooded land of description and with similar advantages. Cash-rents paid by Right of Occupancy. 22. (J) Where tenant having a right of occupancy pays his rent entirely by cash-rate a recognized a cash-rent in on his tenancy, the rent may enhanced the ground that after deduction therefrom of the land-revenue and the rates and cesses chargeable on, 'the (a) if the tenant belongs to the class specified in clause (a) of sub-section (I) of section 5, less than two annas per rupee of the amount. the land-revenue ; (b) if he belongs to any of the classes specified in clauses (b), (c) and (d) of that sub-section less than six annas per rupee of the amount of the land-revenue ; (c) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract less than twelve annas per rupee of the amount of the land-revenue. (?) In case to which sub-section (1) applies, the rent may be enhanced to an amount not exceeding two or six or twelve per rupee of the amount of the land-revenue as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon, Reduction or The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground rents referred to in the last foregoing section. that the productive powers of his tenancy have been decreased by a cause beyond his control. (3) Punjab Act X ; 1025) omitted India; of Existing Order, 1887 : Act xvij TENANCY 35 General Provisions relating to suits for Enhancement or Reduction of Rent. 24. (1) A Court, on the suit Of either Enhancement and "Fluctuation of rent land-lord or tenant, may, subject to the provisions of this by suit. and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy. (2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situated has been generally reassessed and the revenue payable in respect of that land has been increased. (3) Subject to the provision of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either Of the following cases, namely (a) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section, (b) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent, unless the land or some part of the land comprised in his tenancy, not having been irrigated, or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded

25. In enhancing or reducing the rent of any land, Direction as to extent of under the foregoing provisions of this chapter, the enhancement or re- Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at sum less than the amount Of the land-revenue of the land and the rates and cesses chargeable thereon. 26. (1) Unless the Court decreeing an enhance. Time of ment of rent otherwise directs, the enhancement shall enhance or re. duction to take 'Su — ClâUSé was omitted by effect. the Exacting Order. 1947. section 36 take effect from commencement of the agricultural year next following the date of the decree. (2) A Revenue-officer may by order direct in the date on and from which reduction is to take effect. of in terms of Land-revenue. (1) Where the of tenancy is; the of with or addition in money. kind or and of holding in the is situated is altered. a Revenue-officer may by section 56 of the Punjab Act. determine the land-revenue payable in respect of several holdings comprised in the estate in which tenancy is situated shall determine the amount of the land-revenue or the tenancy. or share thereof, payable by the tenant as rent. (2) Where an addition referred to in (1) is a percentage fixed with reference to the revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon. or Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses (3) The sum or sums determined under the foregoing sub-sections, together with any previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the is enhanced by a suit under this Act. (4) An alteration of rent under this section shall not be deemed an increase or reduction of within the meaning of this Act. By Punjab Act XI of 1925 (The Adaptation of Existing Indian Laws) Order. 1947. 1887 : Act TENANCY 37 * [Adjustment of; rents paid by tenants in Attock District.] Alteration of Rent Alteration Of Area. (1) Every tenant shall— 28. (a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise or that any reduction of the rent being made; and (b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area. (?) In determining the area for which rent has been previously paid, the Court shall have regard to the following among other matters, namely (a) the origin and conditions of the tenants' occupancy for instance whether the rent is payable for the entire tenancy; (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and (c) the length of time during which there has been no dispute as to rent or area. with the modification of the Indian of Existing Indian Laws) Order. 1947, section rent on alteration of area. 38 [1887 : Act (3) In adding to or abating rent under this the Court shall hold to or abate the rent to such amount it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect, (4) An addition to or abatement of rent under this section shall not be deemed an enhancement or of rent within the meaning of this Act, Remission

29. Notwithstanding anything in the foregoing provisions of this Chapter. if it appears to a Court decree for an arrear of rent that the area of tenancy has been so diminished by diluvion or otherwise. or that produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full of rent payable by the tenant cannot be equitably the Court may, with the previous sanction of the Revenue-officer, remit the whole or part of the land revenue payable in respect of any land treatment is remitted or suspended, a Revenue-officer may. the revenue. rent be payable in cash or be rent payable in kind as: which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land in amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which payment has been remitted or pending bears; to the whole Of the land-revenue payable in respect of the land Provided in the case of an occupant, whose rent of the hereinbefore in this sub-section described remission or suspension of the land-revenue payable in respect of the land shall. in the absence Of a written order to the contrary carry with it a remission or suspension, as the may be, of his rent. 1 Substituted by the old sub-section by Punjab Act Of section 1887 : Act TENANCY 39 When the

payment of III C rent of any kind has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.] (2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court. (3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or during the period of suspension, of any rent of which the payment has been suspended. (4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent, 11(5) if the landlord collects from a tenant any rent or of which the payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collected and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected from him.] (6) The provisions of this section, relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed in any case in which, if the land-revenue in respect of the land had not been released, compounded {or or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force regulating the remission and suspension of land-revenue. Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land-revenue,] Deposits

31. In either of the following Cases, namely:—Power to deposit (a) when a landlord refuses to receive, or grant a receipt for, rent payable in money when Revenue-officer tendered to him by a tenant, substituted for the old Punjab Act I of section 40 TENANCY ; Act XVI (b) when a tenant is entitled to receive rent payable in the tenant to deposit the rent in his office. receive the deposit after notice satisfied that there is the and if the pays the fee, if any. the issue the notice next to the landlord (c) When deposit is made it shall be for the payment of the rent due to the landlord in respect of rent due. (2) The tenant shall give notice of the receipt thereof to every person who has reason to believe that he is entitled to the amount thereof or to any person to whom he is entitled thereto, or may, if he thinks fit, the deposit pending the decision of a competent officer. the person so entitled. (3) No suit or other proceeding shall lie against the Government, or against any officer of the Government in respect of anything done by an officer under this section, but nothing in this shall prevent any person entitled to receive any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer. Recovery of rent from attached produce. Recovery 33. (1) If an order is made by any officer for the attachment of the produce of a tenancy or of any rent from attached produce. tenancy, the landlord may apply to the person to whom the attachment is to be made to sell the produce and pay to him the proceeds of the sale thereof the amount or value of— (a) any rent which has been due to him in respect of the tenancy within the year immediately preceding the application, and (b) the rent which will be falling due at the time of the sale. (2) If the landlord is entitled to the produce of the land, he shall cause the produce or such portion thereof as may be necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim, (3) The finding of the Revenue-officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant. Leases for period exceeding term of Assessment of Land-revenue. 34. (i) Where a lease has been granted, an agreement for a period of rent has been entered into, by a landowner in respect of any land assessed to land-revenue for a period equal to or exceeding the term for which the land-revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable— (a) at the option of the landowner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the land-owner, determines to be fair and equitable [* and where the relation of landlord and tenant exists between the grantor and grantee of the lease or between the persons who entered into the agreement (b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable * (2) Any agreement relative to the occupation,

35. A tenant holding for a fixed term under tenant for contract or a decree or order of competent authority Ored term.may relinquish his tenancy without notice at the Of that term. Relinqtl'hment 36.

Relinquishment of part only 37. A tenant cannot, without the consent of his landlord, relinquish a part only

40. A tenant not having a right of occupancy but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be term.ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely . (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate ; (c) on any ground which would justify eject- ment under the contract, decree or order

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not open to objection on raco of it, cause a notice of ejectment bo nerved on the tenant. (2) A notice under sub-section (I) shall not be served after the fifteenth day of November in any tragrieulturall year. (3) The notice F,hall specify the name of the landlord on whogr it and the land to tynserteci by Act, (X! I ot 1887 : Act xv1J TENANCY 45 which it relates, and shall informl the tenant that he must vacate the land before the first day of May next folltjwingq or that, if he intends to contest his liability to ejectm:nt, he must institute a suit for that purpose in a Itcvenuc Court within two months from the date of the service of the notice. (C) The notice shall also inform the tenant that ii he dors not intend to cont05t his liability to ejected and he has any claim for compensation on ejectment, he should within two months from the date of the service tho notice prefer his claim to the Revenue-officer having authority under the next following sub-section to his ejectment in the circumstances described in that sub-section. (5) if within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected a Revenue-officer, on the appli- cation of the landlord shallt subject to the provisions n! this Act with respect to the payment of compensation, order the ejectment of the tenant : Provided that the Revenue-omcer shall not make the order until he is satisfied that the notice was duly served on the tenant. (6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant

46. The Financial Commissioner may make rules pre- to make rules.scribing— (a) theform and language of applications and notices vnder the two last foregoing sections; and (b) the manner in which those applications and notices are to be Signed and attested. Prtovrsrorts Tittle for eject- 474 A decree or order for the ejectment of a tenant meritt. shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive). unless the Court making tho where the order is made under section 44 tho making the order. otherwise directs. 48. (I) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of gection 39 or of scolion 40, it appears to the Court that the injury caused by the act or omission on which the suit is 46 net based is enpabJe of beinrt remedied. or that fin comprt1%'ition will bry sufficient ratification to the therefor, tho Court may, infitryarl or making a d ejectment of the tenant. him to rernody the in within a period to toe in the order, or order him toe into Court. within such a period, "UCh compensation Court thintlfti fit. (2) The Court may from time to time, for rcogong, extend a period fixed by it under (3) If within the period, ot extended period. cam may be. fixed by the Court under this bection, injury is t•emedictl or the compensation is paid. a for the ejectment or the tenant shall not bc made. Ftfht' ot ejeet• 89, (1) Where at the time the proposed t erot,ÉOf a tenant from any land hig uncut or ungathered prepareare standing on any part thereof, he shall not be from that part until the crops have ripened and he been allowed a reasonable time to harvest them. (2) The Court or Revenue-officer decreeing ing the ejectment of the tenant mayt on the application the landlord, determine any dispute arising in of the provisions of sub-section (I) between the land.'rd and tenant or between the landlord and any person to harvest the crops ot the tenant, and may in its discretion— (a) direct that the tenant pay for the longer occupa- tion of the land secured to him under sub. section (1) such rent as may be fair and equitable, or (b) determine the value of the tenant's uncut ard ungathered crops. and, on payment thereof b? the landlord to the Court or Revenue-offer. fnrthwith eject the tenant. (3) When a tenant for whose ejectment proceeding; have been taken has conformable with local usage prepared for sowing any Lland comprised in his tenancy but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in preparing the land. and the Court or Revenue•omcer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to 1887 : Act XVII TENANCY the tenant under this sub-section and stay his ejectment unliJ that sum has been paid to him. RELIEF FOR WRONGFUL 50. In either of the following eases, namely Relief tor wr- (a) if a tenant has been dispossessed without consent of his tenancy or any pnrt thereof other- wise than in execution of a decree or than in pursuance of an order under section 44 or sec• tion 45, (b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenaney or any part thereof in pursuance of an order under that section denies his liability to be ejected, the tenänt may, within one year from the date of his dis- possession or ejectment, institute a suit for recovery of possession or occupancy or for compensation, or for both. '150-A. No person whose ejeetrnent has been order. Bar to suits, ed by a Revenue Court under section 45, sub-section (6), or whose suit has been dismissed under section 50, may insti- tute a suit in a civil court to contest his liability to eject. menti or to recover possession or occupancy

rights, or to recover compensation.} Of retie: by 51. Possession Of a tenancy or Of any land comprised under section in a tenancy shall not be recoverable under section 9 of thee of Specific Relief Act, 1877*, by a tenant dispossessed thereof. Power to cary dates prescribed by this Chapter. 52. (j) The '[Central Government] may, for or Power toe any of the territories under its administration, by notifica- gtCentral Gov- tion. fix for the purposes of sections 36.45 and 47 or of any for certain of those sections any other dates instead of those speci- purooe. fied therein. (2) A notifie.qtion under thig geeti/jn. Shail not toke effect till after the expiration of six months from the date of the publication thereof. Pu,ruub Aet V Ot 1929, #Unrpeal Central Acts. *Substituted for the words "State Goveounent•• by the Punjab Re- organisation (Chandigarh} ot on State and Co, current Subjects) TENANCY Act XVI ALIENATION AND Succr.ssgoN TO. Private trans- (J) A tennnt having a right ot occupancy of right or section 5 may transfer that right by gale, gift. or mortgage, occupancy Uhdet• 5 bysubject to the conditions mentioned in thc; section, tenant. (2) If he intends to tran%fer the right by mortgage by conditional gale or unfructuary mortgage, shall cause notice of his intention to bc nerved hig land, lord through a Revenue-officer and %haIJ defer proceeding with the transfer for a period of month from 'the date which the notice is served. (3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue- officer may, on application made to him in this behalf, fit. (4) When the application to the Revenue-officer is to fix the value Of a right Of occupancy which is already mort, gaged, he shall fix the value of the rights as if it were mortgaged. (5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints, (6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the ap plication of the landlord, put the landlord in possession of the tenancy. (7) If the right of occupancy was already mortgaged the tenancy shall pass to the landlord unencumbered by the mortgage but the mortgage-debt shall be a charge on the purchase-money. (8) If there is no such charge as aforesaid the Revenue-officer fillfill, to any directions Which he may receive from any Court, pay the purchase-money to the tenant. (9) Jf there is such a charge the Revenue-officer shall, subject as aforesaid either apply in discharge of the mortgage-debt so much of the purchase-money as i: required for that purpose and pay the balance. if any' to ISection 52-A added by punjab Tenancy {A mendtnent) Act, 1925 o! 192.0}, section 101. omitted by the Indin (Adaptati00 Existing Laws} Order, 1047, section 4(i), 1887 : Act XVII TENANCY 49 the tenant, or retain the purchase-money pending the decision or a Civil Court as to the person or persons entitled thereto. (IO) Where there are several landlords Of a tenancy, any one of them may be deemed to be the landlord for the purposos of this section. (11) No suit or other proceeding shall be instituted against the '[Government), or against any officer of the t(Government), in respect of anything done by a officer under the two last foregoing sub-sections, but no. thing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer

54. Where a mortgagee of a right of occupancy under Procedure foreclosure of section 5 proposes to foreclose his mortgage, or otherwise mortgage enforce his lien on the land subject to the right, the pro- right of cy under section visions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

55. (1) A right of occupancy under section 5 may be sale Of right ot occupancy sold in execution of a decree or order of a Court. "h der R2tion 5 (2) But notice of an intended sale of any such right In shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer con- ducting the sale a deposit of twenty-five per centum on the highest bid rnt'de at the sale, he shall be declared to be the purchaser instead of the person who made that bid. 'Transfer 56. A right of occupancy under any other section than right Ot section 5 shall not be attached or sold in execution of a raney under any decree or order of any Court or, without the previous con. section section 5_ in writing of the landlord bee transferred by private conf ract

57. When a right of occupancy has been transferred and trans• by sale.gift or usufructuary mortgage to a person Other or right or than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights and be sub- ject to the same liabilities as the tenant to whom before the transfer the right had belonged and was subject to. ISub'.titutexi for the word "Crown" by the Adaptation ot Laws order. 58. (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the con. ditions of any vritten contract between him and his Ian d. lord, sublet the land or any

part thereof for any term not exceeding seven years. (2) A person to whom land is sublet by tenant in a right of occupancy therein shall, in respect of that land, and so far as regards the landlord be jointly with the tenant, subject to all the liabilities of the tenant under this Act. [5S.A. (1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Co-operative Society for the Consolidation of Holdings of which both he and his landlord are members and obtain from them any other land in exchange. (2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange. I, Succession. 59. (1) When a tenant having a right of occupancy dies, the right shall devolve— 50 Sublet. r TENANCY : Act (a) on his male lineal descendants, if any, in the male line of descent, and (b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom, and (c) failing such descendants and widow, on his widowed mother, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom.) failing such descendants and widow, or widowed mother or, if the deceased tenant left a widow or widow mother, then when her interest terminates under clause (b) or (c) of this sub-section, on his male collateral relatives in the line of descent from the common ancestor of the deceased tenant and those relatives.] Provided, with respect to clause of this sub-section, that the common ancestor occupied the land, the purpose of clause land obtained in exchange by the deceased tenant any of his predecessors-in-interest in pursuance of the provisions of sub-section (1), of section 58-A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him.) (2) As among descendants and collateral relatives claiming under sub-section (1) the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situated. (3) When the widow of a deceased tenant succeeds to right of occupancy, she shall not transfer the right by sale, gift or mortgage or by for a term exceeding one (4) if the deceased tenant has left no such persons as are mentioned in sub-section (1) on whom, his right of occupancy may devolve under that sub-section, the right shall be extinguished, Irregular Transfers

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord

CHAPTER VI IMPROVEMENTS Compensation Improvements by Landlords. 61. (1) Without the previous permission of the Collector, a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy. occupancy ten— (2) If a landlord desires to make such an improvement he may apply to the Collector for permission to make for the letter in bracket; by Punjab Act of 1920. *Substituted for the letter 'V' by Punjab Act of 1920. 52 of TENANCY it, and the Collector shall, before making an order on the application, hear the objection, if any, of the (3) In making an order on an application under section (2) the Collector shall be guided by rules, if any, made by the [Central Government] or by the Government in this behalf. Enhancement 62. (1) When a landlord has, with the permission of the Collector, made an improvement on the tenancy of a tenant having a right of occupancy he may apply to the Collector for an enhancement of the rent of the tenant. occupancy (2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share rates, or with reference to the rent in gross, as the may be, paid by tenants, having a similar right of occupancy for land of a similar description and with similar advantages. (3) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such as the tenant would be liable to pay under that section if the land-revenue were reassessed. (4) When the improvement ceases to exist, the Collector, may on the application of the tenant reduce the tenant's rent,— (m) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or Tith reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy for land of a similar description and with similar advantages ; and (b) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land-revenue were reassessed. (5) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section, 'Substituted for the word "State Government" the Punjab

organisation (Charidigarh) (Adaptation of Laws on State and Con• current Subjects) Order, 196b *The words "with the previous sanction of the Governor-General in Council" were repealed by the Decentralization Act, 1914), 1887 : Act XVTJ TENANCY 53 improvements by Tenant

63. A tenant having a right of occupancy is entitled Improve.to make improvements on his tenancy. 64.

(1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent not of his landlord. (2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made commencement in accordance with this Act, unless in the case of a tenant this Act. not having a right of occupancy it is shown that the improvement was made in contravention Of a written agreement between him and his landlord

66. A tenant ejected in execution of decree, or in pursuance of a notice of ejectment, shall not be entitled to ration compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment

67. If a landlord tenders to a tenant a lease of his land for twenty years for a term of not more than twenty years from the date of the tender of the rent then paid by the tenant, to or at such other rent as may be agreed on, the tender if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy

68. Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.Compensation for Disturbances of Clearing Tenants. 69. (1) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord compensation for disturbance, in addition to any compensation for improvements a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case. but not exceeding five years' rent of the land : 54 : Act Provided that a tenant who is a joint owner to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land any part thereof, (2) If rent has been paid for the land by division of the produce or by rates fixed with reference to the nature of the crops grown, or if no rent, or rent other than the land-revenue of the land and the cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land-revenue Of the land were the annual thereof : Provided that in any estate of which the assessment has been confirmed on or after the twenty-second day February, 1929, the compensation may be computed as if four times the amount of the land-revenue Of the land were the annual rent thereof.] Procedure in determining Compensation. 70.

(1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any; to compensation for improvements or for disturbance and of the grounds thereof. (2) if the Court decrees the ejectment of the tenant or the enhancement of his rent it shall determine the amount of compensation, if any, due to the tenant and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant. 71, In either of the following cases, namely (a) when a notice has been served on a tenant under section 44, (b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected, the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, added by Punjab Act IV of 1933, : Act TENANCY 55 as the case may be, to determine the amount or compensation due to him for improvements or for disturbance or for both and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant

72. In estimating the compensation to be awarded in under this Chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—compensation for improvement. (a) the amount by which the value or the produce of the tenancy, or the value of that produce

is increased by the improvement ; (b) the condition of the improvement and the probable duration of its effects ; (c) the and capital required for the making of such an improvement (d) any reduction or remission of rent or other advantage allowed to the tenant by the land-lord in consideration of the improvement ; and (e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement. 73. (1) no compensation shall be made by payment of compensation in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way. (2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly. Relief in case of ejectment before the Determination of Compensation, 74. (1) If from any cause the amount or compensation in case of ejectment payable to a tenant— before determination of compensation. (a) under this Chapter for improvements or disturbance, or (b) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing, 56 TENANCY [1887 : Act has not been determined before the tenant is ejected. the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decrees or who orders the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to. (2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court. CHAPTER JURISDICTION AND Jurisdiction. 75. (1) There shall be the same classes of officers under this Act, as under the Punjab Land-revenue Act, 1887, and in the absence of any order of the Central Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue officer of the same class having jurisdiction within the same local limits under this Act. (2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land-revenue Act, 1887. 76. (1) The following applications and proceedings shall be referred by Revenue-officers as such, and no Revenue Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had place:— (a) proceedings under section 27 for the adjustment of rents in terms of the land-revenue; (b) proceedings for "State Government" by the Government (adaptation of Laws on State and Concurrent Subjects) Order. 1968. 1887 : Act TENANCY 57 (b) proceedings relating to the remission and pension of rent under section 30 ; (c) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied ; (d) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71 ; (e) applications under section 53 or section 54 for the fixing of the value of a right of occupancy ; (f) applications under section 53 or section 54 by landlords for possession of land, the right of occupancy in which has become extinct ; (g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance ; SECOND GROUP (h) applications under section 17 with respect to the division or appraisal of produce ; (i) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71 ; (j) application for the determination— (i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or clause inserted by section 11 of Punjab Act of 1925 been omitted by the Indian Adaptation or existing Indian Order, section 4 Act TENANCY (ii) under section 49 "Order 74 of the such crop or or the sum to the tenant for labour and capital expended by him in preparing land for sowing, application under section 31 by tenant to pay rent ; (1) applications under section 36 for notice of relinquishment ; applications under section 43 service notice of ejectment (n) applications under section 53 or section 54 service of notice of intended transfer in case of foreclosure or other enforcement of (2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf (a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications mentioned in sub-section (f) ; (b) an Assistant Collector of the second grade, not being a Naib-Tahsildar, may dispose of any of the applications mentioned in the second and third group of that sub-section ; and (c) a Naib-Tahsildar when invested with the powers of an Assistant Collector of the second grade may dispose of any of the applications mentioned in the third group of that sub-section. 77. (1) When is cognate connection with

respect to any such suit as it described in able by them. sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called Revenue Court (2) There shall be the same classes of Revenue Courts as of Revenue Officers under this Act, and, in the absence of order of the Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits. 'Substituted for the State Government by the Punjab Reorganisation (Chandigarh) (Adaptation Laws on State and Concurrent Subjects) Order. : Act TENANCY 59 (3) The following suits shall be instituted in, and heard and determined by, Revenue Court and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted Provided that— (1) where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section in a Civil Court be heard and determined only by a Revenue Court the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order rule 10, Civil Procedure Code and return the plaint for presentation to the Collector ; (2) on the plaint being presented to the Collector the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1,000 or the matter involved is of the nature mentioned in section 77(3), First Group, of the Punjab Tenancy Act, 1887, and in other cases may send the suit to an Assistant Collector of the first grade for decision.] FIRST GROUP (m) suits between landlord and tenant for enhancement or reduction of rent under section 24 (b) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent ; (c) suits under section 34 for determination of rent or other sum on the expiration of the term of an assessment of land-revenue and suits relating to rent to be paid under a mortgage with form prescribed by section G or the Punjab Alienation of Land Act 1901 ; (d) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that tenant has not such a right ; (e) suits by a landlord to eject a tenant ; (f) suits by a tenant under section 45 to contest title to ejectment when notice of ejectment has been served ; (g) suits, by a tenant under section 30 for recovery of possession or occupancy, or for compensation or for both ; (h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made or for both purposes ; (i) any other suit between landlord and tenant arising out of the lease or conditions on which tenancy is held ; (j) suits for sums payable on account of village cesses or village expenses ; (k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts ; (l) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section ; (m) suits relating to the emoluments of Kanungo, zaildars, inamdars or village officers THIRD GROUP (n) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14; (o) suits for the recovery of such arrears or sums by any other to whom a right to recover the same has been sold or otherwise transferred ; (p) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights 'Added by Punjab NO. 18 or 1903, 1887 : Act TENANCY 61 (p) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such. (4) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,— (a) a Collector may hear and determine any of the suits mentioned in sub-section (3) ; (b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Government], any of the suits mentioned in the first group ; and (c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group. Administrative Control. 78. (1) The general superintendence and control devolve and over all other Revenue-officers and Revenue Courts shall be vested and all such Courts shall be subordinate to, the Financial Commissioner. (2) Subject to the general superintendence and control of the Financial Commissioner a Commissioner shall control all other Revenue-officers and Revenue Courts in his division (3) Subject as aforesaid and to the control of the Commissioner a Collector shall control all other Revenue-officers and Revenue Courts in his district. 79. (1) The Financial Commissioner or Commissioner or Collector may by written order distribute, in such manner as he thinks fit any business cognizable by any Revenue-officer or Revenue Court under his control (2) The

Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control, ISObstiÅuted for the words Government" by the Reorganisation (Chandigarh) (Adaptation of Laws on Stote and Cone current Subjects) Order. 62 TENANCY [1887 Act XVI (3) An order under sub-section (1) Or sub. section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction, Appeal. Review Revision

80. Subject to the provisions of this Act and the rules thereunder, an appeal Shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, ng follows, namely (a) to the Collector when the order or decree is made by an Assistant Collector of either grade; (b) to the Commissioner when the order or decree is made by a Collector; (e) to the Financial Commissioner when the order or decree is made by a Commis- sioner : Provided that—(i) an appeal from an order or decree made by an Assistant Collector of the first grade especially empowered by name in that behalf by the '[Central Governmentl in a suit mentioned in the first group of sub- section (3) of section 77 shall lie to the Commissioner and not to the Collector; (ii) when an original order or decree is confirm. ed on first appeal. a further appeal shall not lie; (iii) when any such order or decree is modi- lied or reversed on appeal by the Collector, the order or decree made by the Commis- sioner on further appeal, if any, to him shall be final 81. The period of limitation for an appeal under for the Jast [oregoing section shall run from the date of iSuL"titu1l'd for the words 0Stute Government" by the Punjab Reorganisation f Chandigarh) (Adaptation of Lave'S on State and Cone current Subjects) Order, 1887 : Act TENANCY 63 the order or decree apponl\$?ri against, and shall be as follows, that is to say (a) when the appeal lies to the Collector—thirty days; (b) when the appeal lies to the Commissioner— sixty days; (c) when the appeal lies to the Financial Commissioner—ninety days, 82, (I) A Revenue-officer, as such, may either of his own motion or on the application Of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in offco Provided as follows (a) when a Commissioner or Collector thinks fit necessary to review any order which he has not himself passed, and when Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject; (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period; (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order; (d) an order against which an appeal hag been preferred shall not be reviewed. (2) For the purposes of this section the Collector shall be deemed to be the successor in office Of any Revenue-officer of a lower class who has left the dis- trict or has ceased to exercise powers as a Revenue. omcer. and to whom there is no successor in office. (3) An appeal shall not lie from an order refusing Io review. or confirming on review, a previous order. : Act 8.3. Jn the computation of the period for an appeal from, or an application for the review of. an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.' g-m•lew. power 84. (1) The Financial Commissioner may at any time call for the rocord of any case pending before proceed• or disposed of by any Revonue-officer or Revenue me-Court subordinate to hime (2) A Commisgioner or Collector may call for the venue Courts record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control. (3) jf in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner. (4) Tf, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3), the Financial Commissioner is of opinion that it is in expedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly. (5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the 21High Courtl in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent

day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case. (6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section, now the Indian Limitation Act, of 1963), for the words "Chief court" by xviii of 1910, 1887: Ph. Act TENANCY Procedure. 65 (1) The 11 Central Government* may make rules, consistent with this Act for regulating the procedure of Revenue-officers under this Act. in cases in which a procedure is not prescribed by this Act. (2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempt* resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession such property. (3) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land Revenue Act, 1887, with respect to arbitration. (4) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report. 86, (I) Appearances before a Revenue-officer as such. and applications to and acts to be done before appearances made him, under this Act may be made or done— and not i a) by the parties themselves, or (b) by their recognized agents or a legal practitioner Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer. 1 Substituted. the words "State Government" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subject"} Order, rules, etc Notification No, 77, Punjab Extraordinary, 1st March, p

79. COFTs. TENANCY [1887 : Pb. (2) For the purposes of sub-section (1) recognized agents shall be such persons as the Government] may by notification declare in this behalf. (3) The fees Of a legal practitioner shall not be allowed as cost in any proceeding before a Revenue officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed. (1) A Revenue-officer may give and appor- 87. tion the costs of any proceeding under this Act in any manner he thinks fit. (2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order. of sg. (1) The '[Central Government] may, make 'rules consistent with this Act for regulating Courts. the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed there- by, and may by any such rule direct that any provisions of the *Code of Civil Procedure shall apply, with or Without modification, to all or any classes of cases before those Courts. (2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act— (a) the 'Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and OSu2ntitutrx for live words ' 'State Government" by the nrzanigetjon (Chandigarh) (Adaptation of Laws on State and Con- euryc•nt Order; 19Cd. words the previous sanction of the iu were revealed by the necvntalization Act, Punjab Gazette 1902, Part p. •see the Code Civil Procedure, IBOS '(Act V : Fb, Act XVII 67 (b) the Financial Commissioner shall, res. pect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall subject to the provisions of this Act. exercise, as regards the Court-3 under his control, all the powers of a High Court under the Code. (1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it Court considers for Of application, suit, or other business before him or it as a Revenue- officer or Revenue Court. (2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognized agent or a legal practitioner. (3) The person attending in obedience to the sum- mons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue- officer or Revenue Court may require. 90. (I) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent, or (c) an adult male member of his family who is residing with him, (2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or; if that person does not reside in the dis- trict in which the Revenue-officer is employed or the Revenue Court is held and the case to which the summons relates

has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate where the land is situate. (3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested. (4) A summons may if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, (5) When a summons is forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post* A notice, order or proclamation, or copy of any such document, issued by a Revenue-Officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons. 92, When a proclamation relating to any land is made or issued by a Revenue-Officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates. 93. (1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer, be parties to a suit, Officer or Revenue Court and subject to any rules which the Central Government may make in this behalf now the Indian Post Office Act, 1898 of 1893). by the Punjab Revenue for the words "State Government (Chandigarh) (Adaptation of Law on State and Concurrent Subjects) Order, 1968. Act 69 behalf, be made parties to any proceeding under Chapter (2) But a decree or order shall not be made in any such proceeding unless the Revenue-Officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard, (3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby. 94, Nothing in section 424 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act. 9; (1) When a defendant admits that money is due from him on account of rent, but pleads that it is admitted due not to the plaintiff but to a third person, the Court shall, for reasons to be recorded, refuse to take cognizance of the plea unless the defendant into Court the amount so admitted due. (2) Where such a payment is made Court forthwith cause notice of the payment to be served on the third person. (3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor. (4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3) (5) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be, Wee the Code of Civil Procedure. 1908 (Act V of 1908) See now the Punjab Municipal Act. (Punjab Act III 70 : Act 1966. A court may for an arrear of rent may, on the oral application of the decree-holder, order execution of hereof or against the proprietor of the tenancy, and notwithstanding any uncut or ungathered crops on the land of which the arrear is decreed

97. A tenant not liable to imprisonment on application of his landlord in execution of an arrear of rent. 98. (i) if, in any proceeding pending a Revenue Court exercising original, appellate or revisionary jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks (2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance appeal, as the case may be. 99. (1) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Commissioner, or, if he is a District Judge or

Commissioner directly to the Court]. (2) On any such reference being made, the : [High Court] may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit. (3) The order of the '[High Court]' on any such reference shall be conclusive as against persons who are substituted for: Judge" "v the Punjab Tenancy Act. vna of 49. for the "Chief court" by Act 1887 : Pb, Act XVI] TENANCY are not parties to the suit as well as against persons who are parties thereto. 100, (J) in either of the power of following cases viz. namely proceed in (a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or (b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court, the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the '[High Court]'. (2) If on perusal of the record it appears to the '[High Court]' that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the "High Court" may order that the decree be registered in the Court which had jurisdiction. (3) If it appears to the '[High Court]', other. on submission of a record under sub-section that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the '[High Court]' pass any order which it might have passed if the record had been submitted to it under that sub-section, (4) With respect to any proceeding subsequent to decree, the '[High Court]' may make such order for its registration in Revenue Court or Civil Court as in the circumstances appears to be just and proper. (5) An order of the '[High Court]' under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered. for word Court" by XVIII TENANCY [1887 Vb. Act XVI 16) The provisions of this section shall apply to any suit instituted on or after the first day of November, and to proceedings arising out of any such suit. Bilingual, (I) An Assistant Collector may exercise his Place Sitting. Holidays. powers this Act at any place within the limits of the district in which he is employed, (2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction. 102. (1) The Financial Commissioner, with the approval of the [Central Government], shall publish in the Official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts. (2) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day

103. When a Collector dies or is disabled from Discharge of: collector-performing his duties, the officer who succeeds temporarily or be. rarely to the chief executive administration of the district shall be deemed to be a Collector under this Act

104. When a Revenue-officer of any class who, whether as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the [Central Government] otherwise directs or has otherwise directed.[Substituted for the words "State Government" by the Punjab Re-organisation (Adaptation of Laws on State and Concurrent Subjects) Order, 2 Substituted the words "Local Official Gazette" by the Government of India (Adaptation of Indian Order, 1937. : Pb. Act XVII 73 105. (I) The [Central Government] may, by Conferment or notification confer on any person—power of RCV & Revenue-officer or Re- (a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or (b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder, and may by notification withdraw any powers so conferred. (2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the [Central Government] may direct, and, except as otherwise directed by the [Central Government], shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be. (3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the

[Central Government] shall consult the Court]. (4) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the [Central Government] by special order otherwise directs, be exercised by him subject to the control of the Collector. 106. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force,— (a) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid; (b) substituting the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Central Subjects) Order

1968. Notification. see Punjab Government Gazette, 1908, Part I, p. 928. 'Substituted for the words "High Court" by Act of 1019. 'For rules by the Financial Commissioner under s. 106 see notification NO. 79. Punjab Gazette, Extraordinary. pp. and EU, respectively. 74 Act XVI (b) for the guidance Revenue-officers in determining, for the purposes of this Act, the amount the land-revenue of any land; (c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act a Revenue-officer or Revenue Court is not except for reasons of urgency to be recorded, to issue any process or arrest again". a tenant or against a landowner who cultivates his own land; (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies; (e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority; (f) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and (g) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act, (2) Until rules are made under clause (a) of sub-section rent shall be payable by the instalments and at the times by and at which it is now payable. (3) Rules made by the Financial Commissioner under this or any other section of this Act shall (be made subject to the control of) the [Central Government]. a. Substituted for the words "take effect until they have been sanctioned by" by the Decentralization of 2 Substituted for the words "State Government" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Subjects) Order, 1968. : Pb. Act 75 of 1968. The power to make any rules under this Act after promulgation is subject to the condition of the Rules being made after previous publication. 108, All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires

CHAPTER VI. EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS

109. An entry in any record-of-rights providing—records of rights. (a) that a landlord may prevent tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case which he would under this Act be entitled to compensation therefor, or (c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act, shall be void to that extent. 110. (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall— (a) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5 or section 6, or words "to the control of the Governor—General in force" repealed by the Devolution Act, 1920 {XXXVIII of 1920. s. 2 and 2 For provision', 6" of the Act. If inserted by the Act of 1887 : Ph. Act (b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, where compensation for disturbance can be claimed under this Act, to claim such compensation or (c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act. (2) Nothing in clause (a) of sub-section (1) apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord* and to the benefit of which the tenant is not otherwise entitled

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land-Revenue Act, 1887, or been entered order a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

112.. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the before record of a regular settlement sanctioned by the Government, namely - "(a) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or apportionment of the produce or other procedure of a like nature, or substituted for the words "State Government" by the Punjab Government (Chandigarh) (Adaptation of Law: Off State and Concurrent Subject) Order, 106B. Act XVII 77 (b) the letting or underletting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists, shall be deemed to be an agreement within the meaning of the last foregoing section. THE SCHEDULE. [Repeated by the Repealing and Amending Act, 1891 of 1891), S 2(1) and first Schedule]

