

KANAM TENANCY ABOLITION ACT, 1976 (NO.16 OF 1976)

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institution of a public nature, whose right to receive payment of jenmukaram has been extinguished, an amount equal to eight and one-third times the aggregate of the annual amount of Jenmikaram payable to him Immediately before the appointed day, after deducting a sum equal to five per centum of the said aggregate on account of collection charges (2) The amount payable under sub-section (1) shall be deemed to have accrued due from the appointed day and Interest thereon shall be payable at the rate of four and a half per centum per annum from the appointed day till the date of payment of the amount, In case the amount IS paid m cash or till the date of redemption of the bonds, If the amount is paid In Government bonds (3) Where the Jenn-n whose right to receive payment of jenrmkaram has been extinguished IS, at the commencement of this Act, a religious or chantable institution of a public natue, the Government shall pay to the institution every year an amount equal to the balance arrived at after deducting from the Jenn-nkaram which such Institution was entitled to receive Immediately before the appointed day, five per centum of such jenmlkaram towards collection charges Explanatnon.—If any question arises as to whether an Institution IS a religious or chartable Institution of a pubhc nature, It shall be decided by the Government after such Inquiry as they deem fit, and their decision thereon shall be final (4) Notwithstanding anything if jenmlkaram has been received by for any period commencing on the deducted from and adjusted against sub-section (1) or sub-section (3), as 3197--6a contained m this section, or on behalf of any jenmi appointed day, It shall be the amount payable under the case may be 74 5. Mode of payment of amount due under section 4(1).— The amount payable to a aenilll, other than a religious or charitable Institution of a public nature, under sub-section (1) of section 4 may be paid either m cash or In Government bonds carrymg Interest at the rate of four and a half per centum per annum and redeemable at the expiration of SIX years from the date of Issue of the bonds, or partly m cash and partly In such bonds, as may be prescribed Interim Where there IS delay In the 6 assessment or payment of the amount payable under sub- section (1) of section 4, or the annuity payable under sub- section (3) of that section, the Government may direct payment of such amount as may be prescribed, by way of Interim relief Provided that If the amount payable under the said sub-section (1) or the annuity payable under the said sub- section (3) as the case may be, to a jenml has not been deter- mined In accordance With the provisions OL this Act before the expiry of one year from the date of publication of the Kanam Tenancy Abolition Ordinance, 1975, In the Gazette, the Government shall, on the application of the Jenn-m concerned, direct the Interim payment under this sub-section (2) The amount payable under sub-section (1) shall be paid In such manner as may be prescribed and shall be deemed to be part of the amount payable under sub-section (1) of section 4 or the annuity payable under sub-section (3) of that section as the case may be, and shall be deducted from and adjusted agamst It (3) Where there IS a dispute In regard to the right to the amount or annuity payable undel section 4 or any portion thel eof, no Interim oayment shall be made under sub- section (1) oi this section 7 Proceedings relating Io assessment and payment of amounts to he before (he Settlement Officer.—All proceedings relating to assessment of the amount payable under sub- of section 4 or the annuity payable under section (1) sub-section (0) of that section and to the payment of the same to the persons entitled thereto shall Ile before the Settlement Officer within whose jurisdiction the holding IS situate. 75 8 Jenmikaram register presumed to describe correctly the right, title and interest of the jenmi and kanam tenant.— (1) Every entry In the Register oi Jenrmkarams prepared under the Kanam Tenancy Act, 1955 and which IS vahd and effective Immediately before the appointed day shall, for the purpose of assessment and payment of the amount or annuity under section 4, be deemed to describe correctly the right, title and Interest of every Jenn-11 and kanam tenant m respect of the holding or part thereof to which It relates Provided that any modification alteration or corn ecuon nnade In the register m consequence of— (a) a decree or order of any court, or (b) a valid transfer ot a holdmg or part of a holding or the right to receive lennukaram. whether by act of parties or DY operation of law on or after the appointed day and before the date of publication of the Kanam Tenancy Abolition Ordinance, 1975, In the Gazette, shall be taken Into account by the Settlement Officer (2) Nothing contained In sub-section (1) shall preclude the Settlement Officer from correcting. either on his own motion or eon the application o] any person Interested a clerical or arithmetical mistake or error apparent on the face of the record. If he IS satisfied that such a mistake or error exists In any entry m the register Provided that no such cortectlon shall be made without giving an opportunity to the party who may be affected thereby of being heard 9 Rolls to be prepared by the Settlement Officer.—The Settlement Officer shall. In the manner prescribed, prepare a draft roll of every Jenn-n In respect of his holding, showing— (a) tht Jenrmkaram In respect of

the holding or part thereof; (b) the names of persons entitled to receive the Jenmlkaram, (c) the kanam tenants hable to m respect of the holding or part thereof, (d) the amount or annuity, as payable under this Act, and (e) such other particulars as may pay the aenrmkaram the case may be, be prescribed. 76 10. Publication of draft After the draft roll IS prepared under section 9, the Settlement Officer shall— (a) publish a notice In such manner as may be pres- cribed, to the effect that the roll has been prepared and IS open to Inspection by any person interested, (b) serve or cause to be served on the Jenn-11 and the kanam tenant concerned, a notice along With a copy of the roll (2) The notice under sub-section (1) shall call upon all persons jnterested, Including members of the family of the .lenrrl) clam•nng any portion of the amount payable under sub- section (1) of section 4, whethel by way of a share or by way of maintenance or otherwise to appear and file obiections and claims within such period as may be prescribed (3) If any objection or clan-n IS filed within the ume prescnbed, It shall be registered by the Settlement Officer who shall fix a date for hearng the same and shall give Intimation to the Jenn-n concerned and to any other person mterested hvho appeared In response to the notice under may have sub-section (1) (4) On the date fixed or on any date to which the pro- ceedmgs are adjourned, the Settlement Officer shall Inqun•e Into and decide the claims and obaectnons (5) In hearing and deciding the objections and claims filed under sub-section (3), the Settlement Officer shall, In so far as they may be applicable, have all the powers of a CIVII court. and, subJect to such modifications as may be prescribed, follow the procedure laid down In the Code of CIVII Procedure, 1908, for the hearing and disposal of suits relating to Immovable property 11 Orders of Settlement Officer to be deemed to be decrees of civil court.—(1) The order of the Settlement Officer in deciding an objection or claim under section 10 or apportionmg the amount payable under sub-section (1) of section 4 among the perqons entitled thereto shall be deemed to be a decree of a CIVII c art and shall contain a concise statement of the case, the pouk's for determmatron, the decision thereon and the reasons fot guch decision 77 (2) Notwithstanding anything contamed m any law, any person aggneved by an order of the Settlement Officer may appeal within Ihilty days oi the receipt by him of the order to the Distncl Court having Jurisdiction over the area nn which the holding IS situate, and the order of the Dstnct Court on such appeal shall be final 12 Con rections to the final rolls.—Except as provided by or under this Act no correction shall be made In the roll after It has become final, provided that the Settlement Officer having .lunsdletlon for the Ome being may at any time before the payment of the amount or annuity, as the case may be, payable under section 4, either oi his own motion or on application filed by a person Interested, correct any clerical or arithmetical mistake or any error arising therein from any accidental slip or ormsslon Provided that no such correction shall be made without giving an opportunft.y of being heard to the party who may be affected thereby 13. Payment of amount or annuity.—(1) The amount or annuity, as the case may be, payable under section 4 shall be paid to the persons whose names have been entered In the roll as being entitled thereto (2) Where before any court or any authority any suit oc proceeding pendmg which directly or Indirectly affects or likely to affect the right of any person to receive the whole or part of the amount or annuity. as the case may be, payable under section 4. the court or authority may require the Settle- ment Officer to place at Its disposal the amount or annuity so payable, and thereupon the same shall be disposed of In accordance With the orders of such court or authority 14. Payment of amount or annuity to be full discharge of the liability to pay jenmikaram.—The payment of the amount or annuity payable under section 4 to the jenmles or other persons entitled thereto In the manner prescribed by or under this Act shall be a full discharge of the liability for payment of jenmlkaram and no further claims for jenrmkaram or for payment of such amount or annuity, as the case may be, shall lie. 78 15 Collection of arreans. • —(0) All arrears of Jenmlkaram payable under the Kanam Tenancy Act 1955, which accrued due from any kanam tenant munedldtely bef01 e, and IS outstanding on the appointed dd) shall be recox ered as If this Act had not been passed (2) Notwithstanding anything contained zn sub-section (1) or In any Judgment. decree, or order of court. all such arrears as are referred to In that sub-section shall be deemed to be fully discharged If the kanam tenant pax,s within one year from the date of publication of the Kanam Tenancy Abolition Ordinance 1975. In the Gazette, an amount equal to the arrears of jenn-nkaram for the one year lirnmedlately preceding the appomted day or the actual an ears outstanding on that day, whiche x er JS le.ss CHAPTER 111 Recovery from kanam tenants of the amount paid to ienmics 16. Kanam tenant liable to pay The Government shall be entitled to collect from, each kanarn tenant and each kanam tenant shall be liable to pay to the Government an amount equal to eight and one-third times the jenmlkaram payable by him to lus aenrm, towards compensa- tjon for the extinguishment by the Government of his

liability to pay Jenmlkarann to hrs jenmr (2) Notwithstanding anything contained In su b-section (1), the Jennukaram. If any, paid by the kanam tenant In accordance vclth the provisions of the Kanan) Tenancy Act. 1955, for any penod conunenemg on the appointed day, shall be deducted from, and adjusted against the compensation payable by him under that sub-section (3) The compensation recoverable flom the kanarn tenant shall. subject only to the priority of any tax or cess payable to the Government, be a first charge on the holding and shall be recovered from the kanam tenant In the manna heremafter provided 17 Compensation recoverable in sixteen instalments.— (1) The kanam tenant shall be liable to pay to the Government 79 the compensation due from him under section 16 in sixteen equal half-yearly Instalments With Interest at four and a halt per centum per annum, the first Instalment commencmg from such date as the Government may notify, provided that nothing In this sub-section shall be deemed to preclude a kanam tenant from paying at any time a large sum than the amount of an Instalment or from paymg the whole amount due In one Instalment (2) If any sum In excess of the amount of an Instalment JS paid, It shall be credited m reduction of the total amount future Instalments being, If necessary, due, the nun-Iber of reduced, but no postponement of subsequent Instalments shall be permitted. nor shall the alteration In the amounts of sub- sequent Instalments allowed except In the final Instalment, If such alteration IS necessary to adjust the balance due (3) Where a kanam tenant pays the entire amount due nn a lump sum on the date on which the first Instalment IS payable, he shall be allowed a rebate of five per centum of the amount so paid 18 Payment of compensation to the nearest Treasury.— All payments due under section 16 shall be paid In such manner as may be prescribed to the credit of the Government at the nearest Government Treasury or the Village Office within the jurisdiction of which the holding situate or at such other place as may be prescribed 19 Condonation of default.—The Government Inay, by genera) or special order notified m the Gazette. for sufficient reason postpone the payment of any mstalnnent of the compensation or condone the default In payment of any Instalment of the compensation on the due date (b)ligation of transferor and transfercc to give notice 20 of transfer.—(1) Whenever the title of any person pnmanly liable to pay the compensation under sub-section (1) of section 16 transferred, the person whose title IS transferred and the person to whom the same IS transferred shall, within three months— (a) of the execution of the Instrument of transfer or after Its registration, If It be registered, or after the transfer IS effected If no Instrument be executed, or 80 (b) from the date of publication of the Kanam Tenancy Abohtion Ordinance, 1975, In the Gazette, whichever IS later, give notice of such transfer to the Settlement Officer (2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased has been transferred as heir or otherwise, shall give notice of such transfer to the Settlement Officer within one year of the death of the deceased or within one year from the date of publication of the Kanam Tenancy Abolition Ordinance,) 975 In the Gazette, whichever IS later (3) The notice to be given undel this section shall be rn such torm as may be prescribed and the transferee or the If person to whom the title passes, as the case Inay be. shall, so required, be bound to produce before the Settlement Officer any document evidencing such transfer or succession (4) Every person who does not give nolicc of any transfer referred to In sub-section (1) or sub-section (2) m accordance With the provisions of this section shall On addition to any other liability he may Incur through such neglect) continue hable for the payment of the compensat)on In respect of the land transferred until he gives such notice or until the transfer has been recorded In the revenue registers, but nothing In this section shall be held to affect the liability of the transferee for the payment of the said compensation 21. Kanam tenant's liability to pay compensation in case of division of holding.—(1) Where a holding IS divided after the appointed day and before the date of publication of the Kanam Tenancy Abolition Ordinance, 1975, In the Gazette, the kanam tenant shall give notice of such division to the Settlement Officer of' such other officer empowered In this behalf by the Government by notification m the Gazette and the kanam tenant shall continue liable for the payment of the compensa- tion due to the Government unless such notice has been given and the necessary been made m the division. (2) Where a publication of the entries fixing the respective hab)htles have revenue records In accordance With such holding IS divided after the date of Kanam Tenancy Abolition Ordinance. 1975, 81 In the Gazette, the kanam tenant shall continue liable for the payment of compensation due to the Government unless such division IS effected With the permission of the Settlement Officer or such other officer empowered m this behalf by the Government by notification In the Gazette and the necessary entries, fixing the respective liabilities have been made m the revenue records In accordance With the division (3) Nothing contamed In sub-section (1) or sub-section (2) shall

preclude the Government from proceeding against the entire holding and recovering the amount due to the Government leaving the parties to settle their claims against each other between themselves. recoverable under the Revenue 22 Compensation Recovery Act.—Any amount due to the Government as arrears of compensation or otherwise may be recovered under the provisions of the Revenue Recovery Act for the time being in force, as if they were arrears of public revenue due on land.

CHAPTER IV Miscellaneous

23 Settlement Officers.—The Government shall appoint as many Settlement Officers as may be necessary from among officers not below the rank of Tahsildar, for the purpose of exercising the powers and performing the functions of a Settlement Officer under this Act.

24 Powers of Settlement Officer.—The Settlement Officer shall have all the powers of a Civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely — (a) summoning and enforcing the attendance of any person and examining him on oath, (b) requiring the discovery and production of any document, (c) receiving evidence on affidavit, (d) Issuing commissions for the examination of witnesses or for local investigation, (e) requiring any public record or copy thereof from any court or office; and (f) any other matter which may be prescribed.

25 Protection of action taken under the Act.—No suit, prosecution or other legal proceedings shall lie against the Government or any officer for anything in good faith done or intended to be done under this Act or the rules or orders made thereunder.

26 Bar of jurisdiction of civil courts.—No court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Settlement Officer or any other authority.

27 Rates of commutation.—Where the jenmikaram or any portion of it consists of paddy or other commodity, it shall be commuted into money value, and for the purposes of this Act the commutation rates for any commodity shall be the rates specified for that commodity in the notification issued by the Government under section 49 of the Kanam Tenancy Act, 1955 and which is in force immediately before the appointed day.

28 Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purpose of removing the difficulty.

29 Power to make rules.—The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for— (a) all matters expressly required or allowed by this Act to be prescribed, (b) the proportion in which the amount payable under sub-section (1) of section 4 may be paid in cash or in bonds, (c) the extent and manner of interim payments under section 6, (d) the manner in which rolls have to be prepared under section 9, (e) the time within which objections and claims have to be filed under sub-section (3) of section 10, (f) the fees to be paid in respect of applications and appeals under this Act.

(3) Every rule made under this Act and every order issued under section 28 shall be laid as soon as may be after it is made or issued before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or order or decides that the rule or order should not be made or issued, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

30 Amendments to Act 1 of 1964.—In the Kerala Land Reforms Act, 1963 (1 of 1964),— (a) in section 2,— (i) in clause (22), the proviso shall be omitted; (ii) in clause (40), sub-clause (c) shall be omitted; (b) in section 30A, after the words, figures and letters "the 1st day of May, 1966", the words and figures "and before the commencement of the Kanam Tenancy Abolition Act, 1976" shall be inserted; (c) in section 72R, in sub-section (1), before the words "and the kanam tenant shall have no liability to pay such jenmikaram", the words and figures "until the commencement of the Kanam Tenancy Abolition Act, 1976", shall be inserted; (d) in section 112, sub-section (6) shall be omitted; (e) in section 114, sub-section (3) shall be omitted.

31 Repeal and saving.—(1) The Kanam Tenancy Act, 1955 (XXIV of 1955) and the Kanam Tenancy Abolition Ordinance, 1975 (21 of 1975), are hereby repealed (2) Notwithstanding the repeal of the Kanam Tenancy Abolition Ordinance, 1975 (21 of 1975), by sub-section (1), anything done or any action taken under that Ordinance shall be deemed to have been done or taken under this Act.