

# THE UNITED PROVINCES ENCUMBERED ESTATES ACT, 1934 (U.P. Act No. XXV of 1934)

THE UNITED PROVINCES ENCUMBERED ESTATES

ACT, 1934<sup>1</sup>

(U. P. Act No. XXV of 1934)

*Amended by*

U. P. Act no. IV of 1935

U. P. Act no. XI of 1939

U. P. Act no. II of 1940

U. P. Act no. X of 1943

U. P. Act no. IV of 1946

U. P. Act no. XIII of 1954

**Adapted and modified by the Government of India (Adaptation of  
Indian Laws) Order, 1937.**

**Adapted and modified by the Adaptation of Laws Order, 1950.**

**[Received the assent of the Governor on January 15, 1935, and of the  
Governor General on April 10, 1935, and was <sup>2</sup>published under section 81 of  
the Government of India Act on April 27, 1935.]**

AN

ACT

*to provide for the relief of Encumbered Estates United Provinces*

**WHEREAS it is expedient to provide for the relief of Encumbered  
Estates in the United Provinces and whereas the previous sanction of  
the Governor General under section 80-A of the Government of India  
Act has been obtained to the passing of the Act ;**

**It is hereby enacted as follows ;**

## CHAPTER-1

### PRELIMINARY

**Shorttitle,** 1. (1) This Act may be called the United Provinces Encumbered extent and  
**Commencement** Estates act, 1934.

(2) It extends to the whole of <sup>3</sup>[Uttar Pradesh]<sup>4</sup>[\* \* \*] except the  
districts of Garhwal and Almora, the Naini Tal Tahsil of the Naini Tal  
District and the tract of JaunsarBawar of the Dehra Dun District.

(3) (a) This chapter and Chapter III shall come into force on  
Government] in that behalf.

---

1. For S. O. R. *see* *Gaz. Extra.*, d. March 29, 1934, p. 15; for R. S. Com., *see* *ibid.*, d. June 15, 1934, pp. 1—54; for discussion, *see* L. C. Pro., d. April 9 and 112, and June 23, 1934, in Vol. LXIII, pp. 93—136 and 581, 584, respectively, d. November 15, 16, 19, 20, 26, 7, 28, 29, 30, and Dec. 1 and 3, 1934, in Vol. LXVI, pp. 314—335, 358—408, 420—476, 47—541, 548, 579, 586—612, 620, 663, 666—698, 700—746, 748—80 and 819—873, respectively, and December 7 and 8, 1934, in Vol. LXIV, pp. 145—159 and 165 220, respectively.

2. *See* *Gaz.* 1935, Pt. VII, pp. 31—41.

3. *Subs.* by the A. O. 1950 for (the United Provinces).

4. The words (of Agra and Oudh) *omit.* by *ibid.*

5. All the chapters of this Act came into force on April 30, 1935 (*see* not. no. 329, Rev., d. April 27, 1935, in *Gaz.*, 1935. Pt. VIII, pp. 100.)

6. *Subs.* for "Gaz." By A. O. 1937.

7. *Subs.* by the A. O. 1959 for [Prov'l.Govt.] which had been *subs.* by the A. O. 1937 for (L. G.).

[The United Provinces Encumbered Estates Act, 1934]

(b) The remaining chapters shall come into force on the expiry of a period of  
one year from the date notified under the provisions of clause (a) :  
Provided that the <sup>1</sup>[State Government] may from time to time by notification

in the 2[*official Gazette*] bring the said chapters into effect in any district or districts on any earlier date or dates.

2. In this Act unless there is anything repugnant in the subject

**Definitions**

or context :

(a) "debt" includes any pecuniary liability except a liability for unliquidated damages ;

(b) "private debt" means any debt other than a public debt ;

(c) "public debt" means a 3[debt due to the 4[(Government)] or to a local authority ;

(d) "land" means a share of or interest in a mahal in 5[Uttar Pradesh]but does not include the interest of a mortgagee or thekadar or an assignment of land revenue unless it is transferable and perpetual ;

(e) 6[ \* \* \* ]

(f) "mahal" has the same meaning as in sub-section (4) of section 4 of the Land Revenue Act, 1901 ;

(g) "landlord" means a proprietor of a *mahalar* of a share of or interest in a mahal and includes an *ubaridar*, an under proprietor or a sub-proprietor and a proprietor of specific plots, but does not include a mortgagee or a *thekadar* :

Provided that no person shall be deemed to be a landlord, if his land is assessed to less than a local rate of one rupee under section 109 of the District Boards Act, 1922.

(h) 7[ \* \* \* ]

(i) 7[ \* \* \* ]

(j) 7[ \* \* \* ]

(k) 7[ \* \* \* ]

1.

*Subs.* by the A. O. 1959 for [Prov'l.Govt.]which had been *subs.* by the A. O. 1937 for [L. G.].

2. *Subs.* for "Gaz."By A. O. 1937.

3. *Subs.* for "debt due to Government" by A. O. 1937.

4. *Subs.* by the A. O. 1950 for [crown].

5. *Subs.* by the A. O. 1950 for [Prov'l.Govt.].

[6. Omit. by s. 2 \(i\) of U. P. Act XIII of 1954.](#)

[7. Omit by s. 2 \(i\) of U.P. Act XIII of 1954.](#)

[The United Provinces Encumbered Estates Act, 1934]

(l) 1[ \* \* \* ]

(m) 1[ \* \* \* ]

2[(n) a reference to 'proprietary rights in land' shall include a reference to compensation and rehabilitation grant payable under and in accordance with the U. P. Zamindari Abolition and Land Reforms Act, 1950, and

(o) the expressions 'compensation' and 'rehabilitation grants' shall mean the compensation or as the case may be, the rehabilitation grant payable under the U. P. Zamindari Abolition and Land Reforms Act, 1950, and includes in the case of compensation, interim compensation payable under section 29 of the said Act.]2

## CHAPTER-II

### APPOINTMENT OF OFFICERS

#### Appointment of Special

3. (1) The 3[State Government] may appoint any civil judicial and removal officer to be a Special Judge of the first or second grade for any local Judge area and such Special Judge shall, subject to the orders of Government as regards the area and extent of his jurisdiction to exercise the powers conferred, and perform the duties imposed, on him by this Act.

(2)3[The State Government] may suspend or remove any Special Judge so appointed.

## CHAPTER-III

## THE APPLICATION

**Application** 4. (1) At any time within one year after the date on which this **for benefit of**  
**within which** chapter comes into force any landlord who is subject to or whose **Act and time**  
immovable property or any part thereof is encumbered with private **it may be**  
debts, may make an application in writing to the Collector of the **made**  
district in which his land or any portion of his land is situated stating the amount  
of such private debts and also of his public debts both decreed and undecreed and requesting that the  
provisions of this Act be applied to him :

Provided that when the property of any landlord is under the  
superintendence of the Court of Wards any application under this section shall be  
made by the manager of his property and, when any landlord is by reason of  
personal incapacity disqualified from instituting any proceeding in a civil court, an  
application under this section may be made on his behalf by his legal or natural  
guardian or any person actually managing his property :

1.

Omit by s. 2 (i) of U.P. Act XIII of 1954.

2. Add. by s. 2 (iii), of U. P. Act XIII of 1954.

3. Subs. by the A. O. 1959 for [Provl.Govt.]which had been subs. by the A. O. 1937 for (L. G.).

[The United Provinces Encumbered Estates Act, 1934]

Provided also that no application by a member of a joint Hindu family shall  
be entertained, unless —

(a) all the members of such family join and the fact is stated in the  
application, or

(b) the applicant makes in the application an express declaration of his  
intention of separating from the joint family and states the names and addresses of  
the remaining members of the family and the share which the applicant would be  
entitled to get on partition of the family property.

Provided also that no landlord who has been adjudicated insolvent and has  
not been discharged shall apply under this section :

Provided also that if an application under this section is made by all the  
heirs of a deceased debtor who are not members of a joint Hindu family, then this  
fact shall be stated in the application :

Provided also that if an application under this section is made by one or  
more but not by all the heirs of a deceased debtor who are not members of a joint  
Hindu family then this fact shall be stated in the application and the names and  
addresses of those heirs who have not joined in the application and the shares of all  
the heirs in the property inherited by them from the deceased debtor shall be  
mentioned in the application.

(2) The <sup>1</sup>[State Government] may by notification in the <sup>2</sup>[Official Gazette]  
<sup>3</sup>[extend] the time prescribed for making applications under this section by a further  
period of six months.

(3) If within three months after the date on which Chapter III of this Act  
comes into force a landlord has applied for amendment of a decree under the  
provisions of the United Provinces Agriculturists Relief Act, 1934, the period from  
the date of his application to the date of the final disposal thereof shall be excluded  
from the period within which he may make an application under sub-sections (1)  
and (2) of this section.

(4) If a landlord presents an application under this section within a period  
of six months next following the last date on which an application may be made  
under the provisions of sub-section (1) or (2) of this section, as the case may be, and  
satisfied the Collector that he was prevented by any sufficient cause from applying  
within the period prescribed by those sub-sections, the Collector may accept the  
application.

1.Subs. by the A. O. 1958 for [Provl.Govt.]which had been subs. by the A. O. 1937 for (L. G.).

2. *Subs.* for "Gaz." By A. O. 1937.

3. For extending the time for application by six months, see not. no. 812—VII/I—434, D. April 1, 1936, in Gaz. 1936, Pt. VIII, p. 97.

[The United Provinces Encumbered Estates Act, 1934]

1[(5)] If an objection is taken before the Collector or Special Judge that the application is defective and such an objection is upheld, the Collector or Special Judge, as the case may be, shall at the request of the landlord amend the application in accordance with the provisions of the Code of Civil Procedure, 1908, relating to the amendment of plaints, and shall proceed with the case.

2[(6)] No application shall be dismissed by reason only of the fact that the applicant is a landlord by virtue of succession to or surrender by a Hindu widow or other limited owner.]

#### Bar of second

5. No landlord who has made an application under section 4 **application** shall be entitled to make another application to any other Collector. If such other application is made all proceedings arising out of it shall be void and such application shall be reported to the Board of Revenue.

#### Transmission

6. 3[When an application has been duly made according to the of provisions of section 4, the Collector shall forthwith pass an order that it **application** to **Special** be forwarded to the Special judge and shall furnish the applicant free of **Judge** cost with a certified copy of the order. He shall then forward the application to the Special Judge and shall inform him of such public debts outstanding against the landlord as may be laid down in rules framed by the 4[State Government] in this behalf.]3

#### Consequence

7.s[(1) When the Collector has passed an order under section 6 of **acceptance** the following consequences shall ensue :  
of an

#### application

(a) all proceedings pending at the date of the said order in any **by the** civil or revenue court in 6[Uttar Pradesh] in respect of any public or **Collector** private debt to which the landlord is subject, or with which his immovable property is encumbered, except an appeal 7[review] or revision against a decree or order, shall be stayed, all attachments and other execution processes issued by any such court and then in force in respect of any such debt shall become null and void, and no fresh process in execution shall, except as hereinafter provided, be issued ;

(b) no fresh suit or other proceedings other than an appeal 8[review] or revision against a decree or order, or a process for ejectment for arrears of rent shall, except as hereinafter provided, be instituted in any civil or revenue court in 6[Uttar Pradesh] in respect of any debts incurred before the passing of the said order 9[but if for any reason whatsoever such a suit or proceeding has been instituted, it shall be deemed to be a proceeding pending at the date of the said order within the meaning of clause (a)]

1Add. by s. 2 of U. P. Act XI of 1939.

2.Add by sec. 2 *ibid*.

3.Subs. by s. 2 of U. P. Act IV of 1935.

4 .*Subs.* by the A. O. 1950 for [Prov'l.Govt.]which had been *subs.* by the A. O. 1937 for (L. G.).

5. *Ins.* by s. 3 of U.P. Act IV of 1935.

6 *Subs.* by the A. O. 1950 for the United Provinces.

7*Ins.* by the s. 3 of U. P. Act XI of 1939.

8. *Ins.* by the sec. 3 of U.P. Act XI of 1939.

9Add. by s. 4., *ibid*.

[The United Provinces Encumbered Estates Act, 1934]

Provided that when a landlord has executed anusufructuary mortgage in respect of any of his land and is in possession of that land as a thekadar of the mortgagee, no fresh process shall issue for his ejectment from that land for arrears of the *theka* rent.

(2) After the passing of the said order and until the application is dismissed by the Special Judge under sub-section (3) of section 8 or proceedings under this Act are quashed under section 20 or until the Collector has liquidated the debt 1[under Chapter V] no decree obtained on the basis of any private debt incurred by the landlord after the passing of the order under section 6 shall be executed against any of his property, other than proprietary rights in land which has been mentioned in the

notice under section 11 and the landlord shall not be competent without the sanction of the Collector to make an exchange or gift of, or to sell, mortgage or lease, any of that property.

(3) After the passing of the order under section 6 and until the Collector has declared in accordance with section 44 that landlord has ceased to be subject to the disabilities of this sub-section <sup>2</sup>[or until the passing of the order by the Special Judge, referred to in sub-section (2) of section 44]<sup>2</sup> no decree obtained on the basis of any private debt incurred after the passing of the order under section 6 shall be executed against any of the landlord's proprietary rights in the land mentioned in the notice published under section 11 and the landlord shall not be competent, without the sanction of the Collector, to make any exchange or gift of, or to sell, mortgage or lease those proprietary rights, or any portion of them.

(4) Any transfer made in contravention of the provisions of this section shall be void.

#### CHAPTER-IV

##### PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE

**83.** (1) When the Special Judge has received an application under section 6, he shall call upon the applicant to submit to him within a **Written statement to be submitted.** period to be fixed by him on this behalf a written statement containing so far as may be practicable —

(a) full particulars respecting the public and private debts to which the landlord is subject, or with which his immovable property or any part thereof is encumbered ;

(b) the nature and extent of the landlord's proprietary rights in land ;

(c) the nature and extent of the landlords property which is liable to attachment and sale under section 60 of the Code of Civil Procedure, 1908, exclusive of his proprietary rights in land ; and

(d) the names and addresses of his creditors, so far as they are known to or can be ascertained by the applicant.

[Subs. by s. 3 of U. P. Act XIII of 1954.](#)

[2. Added by s. 4 of U.P. Act no.XI of 1939.](#)

[3. Renumbered by s. 4 of U. P. Act IV of 1935.](#)

[The United Provinces Encumbered Estates Act, 1934]

**Verification** (2) The statement shall be verified in the manner prescribed by of statement. law for the verification of plaints ;

Provided that, when the application is made by the manager of any property, under the superintendence of the Court of Wards, it shall not be necessary for such manager to verify the statement but the landlord shall, so far as may be practicable, within a period to be fixed by the Special Judge in this behalf furnish such information regarding any of the matters mentioned in clause (a), (b), (c) and (d) of sub-section (1) of this section as the Special Judge may require.

<sup>1</sup>[(3) When the written statement referred to in sub-section (1) or the information referred to in the proviso to sub-section (2) has not been submitted or furnished within the period fixed without any reasonable cause, the Special Judge may dismiss the application and in that case shall inform the Collector that he has done so ].

**Notice calling** **92.** (1) The Special Judge shall publish in the <sup>3</sup>[official Gazette] for claims a notice in English <sup>4</sup>[and in Hindi in Devanagari Scripts]<sup>5</sup>[\*\*\*\*] calling upon all persons having claims in respect of private debts both decreed and undecreed against the person or the property of the landlord by or on whose behalf the application has been made under section 4 to present to the Special Judge, within three months from the date of the publication of the notice, written statements of their claims.

**Copies of exhibited** (2) The Special Judge shall also cause copies of such notice to **notice to be exhibited** be published in such <sup>6</sup>[paper or] papers <sup>7</sup>[\*\*\*] as he may direct and to be exhibited at his own office, at the office of each Collector within whose district any part of the property of the landlord is situate, and at some conspicuous place in the village where the landlord resides and shall also send a copy of the notice <sup>8</sup>[and a copy of the written statement submitted

under sub-section (1) of section 8] by registered post to each of the creditors whose names and addresses are mentioned in the statement under clause (b) of sub-section (1) of section 8].

**Provision for claims within a further** (3) The written statement must be presented within the period **admission of** specified in the notice, unless the claimant satisfied the Special Judge that he had sufficient cause for not presenting it within such period, in **period of two** which case the Special Judge may] <sup>10</sup>, <sup>11</sup>[subject to such orders as to **months** cost as he may deem fit receive such statement if presented at any time before the date on which he sends the decrees to the Collector under the provisions of section 19 or before the 30th day of November, 1939, whichever is later.] <sup>11</sup>

1.

*Add by s. 6 of U.P. Act IV of 1935.*

2. Renumbered by s. 4 *ibid*.

3. *Subs.* for "Gaz." by A. O. 1937.

4. *Ins.* by the A. O. 1950.

5. The words "Urdu and Hindi" del. by s. 6 of U. P. Act XI of 1939.

6. *Ins.* by the s. 7 of U. P. Act XI of 1939.

7. The words "including at least one paper published in English" del. by s. 7 *ibid*.

8. *Add.* by s. 8 *ibid*.

9. *Subs.* for "s. 7" by s. 5 of U. P. Act IV of 1935.

10. *The comma was ins. by s. 9. of U. P. Act XI of 1939.*

11. *Subs.* for the words "receive the statement if presented within a further period of two months" by s. 9 *ibid*.

[The United Provinces Encumbered Estates Act, 1934]

(4) If one or more members of a joint Hindu family apply under the second proviso of sub-section (1) of section 4 then the Special Judge shall apportion the debts due by and the property to the joint family between members who have so applied those who have not applied and, for the purposes of this Act, those members who have applied under section 4 will be treated as if they had separated from the other members.

**Apportionment of debts and property in case of belonging application by and members of a joint Hindu family.**

(5) (a) If one or more of several joint debtors, who are not **of liability of** members of the same joint Hindu family, apply under section 4 but **joint debtors** all the joint debtors do not apply then the Special Judge shall determine the amount of the joint debt which is due by the debtor or **members of a** debtors who have applied and the amount due by those who have not applied. For the purpose of this determination the Special Judge shall make the joint debtors who have not applied parties to the proceedings and shall hear any objection that they may make before recording his finding.

**Determination of joint who are not joint Hindu family.**

(b) If all the joint debtors have not applied under section 4 the creditor shall have a right to recover from the debtors who have not applied only such amount on account of the joint debt as may be <sup>1</sup>[determined] by the Special Judge to be due by them.

<sup>2</sup>[(c) Where no suit has been instituted or where on application for execution of joint decree has been made in any other court in respect of such joint debt or joint decree the creditor may on application to any court having jurisdiction to entertain such suit, or execute such decree, obtain a decree, or get the decree executed against non-applicant joint debtors, for the amount so determined, subject to the payment of the court-fee payable on such execution application, or on a plaint in suit for the amount determined by the Special Judge. : Provided that notwithstanding anything contained in the Indian Limitation Act, 1908, or any other law for the time being in force, in computing the period of limitation for such suit or such execution application the period from the date of the order of the Collector under section 6 to the date of determination of such debt by the Special Judge under clause (b) shall be excluded in either case.]

<sup>3</sup> [(d) Where a suit in respect of the joint debt had been instituted or an application for the execution of the joint decree made, and proceedings herein were stayed under sub-section (1) of section 7, the court in which such suit had been instituted

or such execution application was made shall, on the application of the creditor, proceed with such suit, or execute such application in accordance with sub-section (c) as against those joint debtors who had not applied under section 4, in respect of the amount of the joint debt determined by the Special Judge to be due from such joint debtors] :

----- 1

[Subs. for \(decreed\) by s. 10 U. P. Act XI of 1939.](#)

[2. Cl. \(c\) was ins. by s. 11 \*ibid\*.](#)

[3. Cl. \(d\) was ins. by s. 11 of U. P. Act XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

Provided that in a suit in respect of a liability of a firm, not being a joint family firm and not being a landlord itself, the creditor shall be entitled to proceed in respect of the whole debt against the property of the firm ; but the amount recoverable from the applicant partner personally shall be determined in accordance with the provision of section 14 :

Provided further that for the purposes of this Act a person who is liable for a debt as a surety shall not be deemed to be a joint debtor:

Provided further that notwithstanding anything to the contrary in the Code of Civil Procedure, 1908, nothing in this Act shall prevent the institution of a suit for the recovery of debt against a surety, but no decree shall be passed in such suit for an amount in excess of the amount determined or which would have been determined in accordance with the provisions of section 14 against the landlord :

<sup>1</sup>[Provided also that the total amount which may be recovered from the landlord and the surety shall not exceed the amount determined or which might have been determined by the Special Judge against the landlord.]

**Apportionment  
heirs of a**

(6) If one or more but not all the heirs of a deceased debtor who of liability of are not members of a joint Hindu family apply under section 4 the deceased Special Judge shall apportion the debts due by and the property debtor. belonging to the deceased debtor between those heirs who have made the application and those who have not and subject to the provisions of section 49 that portion of the debt which falls to the share of the heirs who have applied shall be liquidated from the property allotted to them and they shall not be responsible for the portion of the debt which falls to the share of the heirs who have not joined in the application.

<sup>2</sup>[\* \* \* \*]

**Appointment of  
land.**

<sup>3</sup>[9-A. (1) If at any time after the issue of notice under section 9 receiver for the landlord fails to satisfy—

(i) a claim for maintenance falling due after that date under a decree passed before that date, or

(ii) a decree in respect of a claim for maintenance, wages or for professional services passed after that date.

any person in whose favour such a claim has arisen or such a decree has been passed may at any time within the period of limitation for the recovery of the amount due under such decree apply to the Special Judge for the appointment of a receiver and unless such decree is satisfied within a period to be specified by him, the Special Judge shall, unless in his opinion the claim can be satisfied by the appointment

----- 1

[Ins. by s. 11 of U.P. Act no.XI of 1939.](#)

[2.Omit. bys. 4 of U. P. Act IV of 1935.](#)

[3.Add.bys. 5 of U. P. Act IX of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

of a receiver under section 9-B, appoint a receiver of the whole of the landlord's proprietary rights in land or of such part of such proprietary rights as may appear to him to be necessary.

(2) Except as otherwise provided by this Act, the appointment remuneration, duties, etc. of any such receiver shall be governed by the provisions of Order XL of the First Schedule of the Code of Civil Procedure :

Provided that nothing in sub-rule (2) of rule 1 of that Order shall be deemed to prevent the Special Judge from appointing a receiver under this section.

(3) The receiver shall, subject to such payments to the landlord as may be ordered by the Special Judge, meet such claim from the income of the property under his charge.

(4) [The applicant may at any time apply to the Special judge for the cancellation of the order appointing a receiver, and the Special Judge shall, if he is satisfied that all such claims have been and in the case of a claim for maintenance will in future be satisfied without fail, <sup>1</sup>[or that it is no longer necessary in consequence of the acquisition of estates under the U. P. Zamindari Abolition and Land Reforms Act, 1950 to continue the appointment of a receiver] cancel the order appointing the receiver.

(5) <sup>2</sup>[ \* \* \* \* ]

date on which debts are finally discharged either by payment of cash to the debtors under section 23 or section 24 or the grant of a mortgage under section 25, or by the fixation of installment under section 27, or by the transfer of property under section 31, all the powers of the Special Judge, under this section shall vest in the Collector, and if the orders of the Special judge appointing a receiver have not been cancelled before the decrees are sent to the Collector under section 19, the receiver shall, until his appointment is cancelled by the Collector, be considered as having been appointed by the Collector.

(6) If the proceedings are quashed under section 20, or the application under section 4 is dismissed, the order appointing the receiver shall be deemed to be cancelled.]

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| <p><sup>3</sup><b>[9-B.</b> (1) At any time after the issue of the notice under section <del>the</del> 9 the Special Judge may of his own motion or on the application of any the creditors, and shall on the application of any person who might applied for the appointment of a receiver under sub-section (1). If <del>preservation</del> section 9-A and whose claim remains unsatisfied pass such orders and give such directions for the preservation and management of the <del>for non-debtor's</del> property not being proprietary rights in land, and for the <del>landed</del> satisfaction of such claims from the income of such property as he may</p> | <p><b>Direction for<br/>management of<br/>and have<br/><br/>of<br/>appointment<br/>of receiver<br/><br/>property.</b></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|

---

[1. Subs. by s. 4 of U. P. Act XIII of 1954.](#)

[2. Omit. by s. 4 \(2\) \*ibid.\*](#)

[3. S. 9-B. add. by s. 5 of U. P. Act XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

consider just and equitable. He may order that the whole or any portion of the income of such property be utilized for the satisfaction of such claim or be appropriated for the maintenance of the debtor and his family and shall give necessary directions for the accumulation of the balance of such income for the benefit of the creditors, and may from time to time vary or modify such orders.

(2) If the Special Judge considers it just and convenient in the interest of the creditors or claimants aforementioned or if he is of the opinion that the proper carrying out of orders passed under sub-section (1) so requires, he may appoint a receiver of the whole or any part of debtor's property, other than proprietary rights in land, and the provisions of sub-section (2) of section 9-A shall apply to such receiver:

Provided that the Special Judge may for reasons to be recorded appoint the debtor to be the receiver.

(3) A receiver appointed under this section shall continue, even if the decrees passed by the Special Judge have been forwarded to the Collector under section 19 of the Act, unless the Collector for reasons to be recorded in writing cancel or modified the order of his appointment on such terms as he thinks fit. In any, case, any sum which has accumulated or is in the hands of the receiver shall be transferred to the Collector who shall treat such sum as a payment by the applicant in accordance with the provisions of section 23.]

**9-C. 1[\*\*\*]**

**2 [9-D.** The Collector may, on the application of a creditor, **Receiver in**  
**certain** appoint a receiver of any property possession of which has been or **special cases.**  
 might be delivered under the provisions of section 35 and if a receiver is so  
 appointed the provisions of sub-section [(2) and (4)]<sup>3</sup> of section 9-A and the provisions of sub-  
 section (3) of section 9-B regarding the disposal of funds in the hands of the receiver shall,  
*mutatis mutandis*, apply.]

**Claim to** **10. (1)** Every claimant referred to in [section 9]<sup>4</sup> shall in the **contain full**  
**Particulars.** written statement of his claim, give full particulars thereof and shall state so far  
 as they are known to or can be ascertained by him, the nature and extent of the landlord's proprietary  
 rights in land and the nature and extent, if any, of the landlord's property other than proprietary  
 rights in land.

**Documents to** (2) Every document on which the claimant bases his claim, or **be given up.**  
 on which he relies in support thereof, shall be delivered to the Special Judge along  
 with the written statement or if the Special Judge so directs on some later date or  
 dates to be specified by him from time to time in that behalf.

[1.Omit. by s. 5 of U. P. Act XIII of 1954.](#)

[2.Add.by s. 5 of U.P. Act No. XI of 1939.](#)

[3.Subs. by s. 6 of U. P. Act XIII of 1954.](#)

[4.Subs. for "s. 8" and "s. 7" respectively by s. 5 of U. P. Act IV of 1935.](#)

[The United Provinces Encumbered Estates Act, 1934]

(3) If the documents is an entry in any book, the claimant shall **Entries in**  
**books.**  
 produce the book before the Special Judge, together with a copy of the entry on which  
 he relies. The Special Judge shall mark the book for the purpose of identification and,  
 after <sup>1</sup>[having the copy examined and compared] with the original, shall return the  
 book to the claimant.

(4) If any document in the possession or under the control of the **Exclusion of**  
**documents** claimant is not delivered or produced by him as required by this section, **not the**  
 Special Judge may refuse to receive it in evidence on behalf of the **produced.**  
 claimant at the investigation of the case.

**11. (1)** The Special Judge shall publish a notice in the manner **Notice**  
**specifying** specified in <sup>2</sup>[section 9] specifying the property mentioned by the **alleged**  
 applicant under <sup>2</sup>[section 8] or by any claimant under section 10. **property of**  
**a landlord** **and**  
**determina-** **tion of**  
**claims** **thereto.**

(2) Any person having any claim to the property mentioned in such notice  
 shall, within a period of three months from the date of the publication of the notice in  
 the <sup>3</sup>[official Gazette], make an application to the Special Judge stating his claim and the  
 Special Judge shall determine whether the property specified in the claim, or any part  
 thereof, is has to attachment, shall or mortgage in satisfaction of the debts of the  
 applicants.

[Provided that if the claimant satisfies the Special Judge that he had sufficient  
 cause for not making his application within the above period, the Special Judge may  
 receive such application, if presented, at any time before the debt has been liquidated  
<sup>4</sup>[under Chapter V].

(3) The Special Judge shall determine all claims made under this section before  
 he proceeds to determine the amount due to any creditor under section 14 and shall  
 not pass any decree under that section until the expiry of a period of one month after  
 the last day on which he determines a claim under this section.

(4) Any order passed by the Special Judge under this section shall be deemed to be a  
 decree of a civil court of competent jurisdiction.

**12.** Any transfer of property made by a landlord or other person **Annulment**  
**of transfer** acting on his behalf between the day on which the first chapter of this Act

by landlord comes into force and the day on which he applies under section 4, not in certain being a transfer made before and in consideration of marriage or made in cases. favour of a purchaser or encumbrances in good faith and for valuable consideration, may be annulled at the instance of any creditor, if the Special Judge finds that such transfer was made with a view to deprive the landlord's creditors of their rights under this Act.

1.

[Subs. for "examining and comparing the copy" by s. 12 of U. P. Act XI of 1939.](#)

[2. Subs. for "s. 8" and "s. 7" respectively by s. 5 of U. P. Act IV of 1935.](#)

3. Subs. for "Gaz." by A. O. 1937.

[4. Subs. by s. 7 of U. P. Act XIII of 1954.](#)

[The United Provinces Encumbered Estates Act, 1934]

**Claim not to be deemed** 13. Every claim decreed or undecreed against the landlord in duly notified respect of a private debt, other than a debt due to a co-operative society discharged. registered under the Co-operative Societies Act, 1912, by its members Act II of 1912 shall unless made within the time and in the manner required by this Act, be deemed for all purposes and on all occasions to have been duly discharged.

**Examination and determination** 14. (1) The Special Judge shall, by an order in writing, fix a date for inquiring into 1[the claims] made in 'pursuance of the notice n of amount published in accordance with 2[section 9] and give notice of such date of debts. 3[to all the claimants] and the person who made the application under section 4.

(2) The Special Judge shall examine each claim and after hearing such parties as desired to be heard and considering the evidence, if any, produced by them shall determine the amount, if any, due from the landlord to the claimant on the date of the application under section 4.

(3) All evidence recorded in any suit or proceeding which is stayed under sub-section (1) of [section 7]4may be taken by the Special Judge as evidence recorded before himself.

(4) In examining each claim the Special Judge shall have and exercise all the powers of the court in which a suit for the recovery of the money due would lie and shall decide the questions in issue on the same principles as those on which such court would decide them, subject to the following provisions, namely—

(a) the amount of interest held to be due on the date of the application shall not exceed that portion of the principal which may still be found to be due on the date of the application :

(b) the provisions of the Usurious Loans Act, 1918, will be applicable to proceedings under this Act :

(c) the provisions of the United Provinces Agriculturists' Relief Act, 1934, shall not be applicable to proceedings under this Act.

(5) For the purpose of ascertaining the principal under clause (a) of sub-section (4) the Special Judge shall treat as principal any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transaction 5[on or before December 31, 1916].

6 [Explanation— Interest which on or before December 31, 1916, become part of the principal under the express terms of original

1.

[Subs. for "each claim" by s. 14 of U. P. Act XI of 1939.](#)

[2. Subs. for "s. 8" by s. 5 of U. P. Act IV of 1935.](#)

[3. Subs. for "the claimant" by s. 14 of U. P. Act XI of 1939.](#)

[4. Subs. for "s. 9" by s. 5 of U. P. Act IV of 1935.](#)

[5. Subs. for "before Dec. 31, 1916" by s. 14 of U. P. Act XI of 1939. 6. Ins. by s. XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

contract shall, for the purposes of this section, be deemed to be principal.]1

(6) For the purpose of ascertaining the principal under clause (a) of sub-section (4) the Special Judge shall not treat as principal any accumulated interest

which has been converted into principal at any statement or settlement of accounts or by any contract made in the course of the transactions after December 31, 1916.

(7) If the Special Judge finds that—

**Decrees of  
Special Judge.**

(a) no amount is due, he may pass a decree for costs in favour of the landlord ;

(b) an amount is due to the claimant he shall —

(i) pass a simple money decree, having regard also to the provisions of sections 3 of the U. P. Zamindar's Debt Reduction Act, 1952, for such amount together with any costs which he may allow in respect of the proceedings in his court and of proceedings in any court stayed under the provisions of this Act together with *pendentelite* and further interest at a rate not higher than 4¼ per cent per annum ; and

(ii) also certify the amount, if any, of such decree which, in accordance with the provisions of section 8 of the U. P. Zamindar's Debt Reduction Act, 1952, is not legally recoverable otherwise than out of the compensation and rehabilitation grant payable to the landlord :

<sup>2</sup>[Provided that no *pendentelite* interest shall be allowed in the case of any debt where the creditor was in possession of any portion of the debtor's property in lieu of interest payable on such debt for the period he was so in possession.

(8) Every decree passed under sub-section (7) shall be deemed to be a decree of a court of competent jurisdiction but shall not be executable within U. P. except under the provisions of this Act.]

**15.** In determining the amount due on the basis of a loan

**Saving in  
respect of  
existing the  
decrees.**

which has been the subject of a decree the Special Judge shall accept findings of the court which passed the decree except in so far as they are inconsistent with the provisions of section 14 <sup>3</sup>[or section 4 of the U. P. Zamindar's Debt Reduction Act, 1952]:

Provided that the Special Judge shall not determine any claim under a decree, until an appeal or revision filed against such decree has been finally decided or the period allowed for appeal has expired, and in all such cases the findings of the Special judge shall be based on the final decree.

**16.** The Special Judge shall rank all debts for priority,

**Ranking of  
debts for  
priority.**

provided that debts in the earlier of the following classes shall have priority over those in the later classes :

1.

[Ins. by s. XI of 1939.](#)

[2.Subs. for by s. 8 of U. P. Act XIII of 1954.](#)

[3.Ins. for by s. 9 of U. P. Act XIII of 1954.](#)

[The United Provinces Encumbered Estates Act, 1934]

Class (1) Debts recoverable under the Agra Tenancy Act, 1926<sup>1</sup>, the Oudh Rent Act, 1886<sup>2</sup>, and the Land Revenue Act, 1901 ;

Class (2) Public debts due to the Government and public debts due to a local authority creating a charge on immovable property ;

Class (3) Debts secured upon property against which the Collector may take action under the provisions of section 24 up to the value of the security ;

<sup>3</sup>[Class (3-A) Secured debts which are not legally recoverable otherwise than out of the compensation and rehabilitation grant payable to the landlord ;]

Class (4) Other secured debts ;

Class (5) Debts due on account of goods supplied or services rendered ; and

Class (6) Unsecured debts due to a local authority ; debts falling into class (3) in excess of the value of security and other unsecured debts.

**Determination** **17.** (1) If the amount of any public debt reported by the Collector of amount of under section 6 is disputed and if a suit would lie in any civil or public debts reported by revenue court to determine the amount of that debt, the Special Judge Collector shall, after such inquiry as may be necessary, determine such dispute.

(2) If a suit would not lie in any civil or revenue court to determine the amount of a public debt the Collector's decision about the amount of the debt shall be final.

**Effect of** **18.** Subject to the right of appeal or revision conferred in **finding of** Chapter VI, the effect of decree of the Special Judge under sub-section **Special Judge**

(7) of section 14 shall be to extinguish the previously existing rights, if any, of the claimant, together with all rights, if any, of mortgage or lien by which the same are secured and, where any decree is given by the Special Judge to substitute for those rights a right to recover the amount of the decree in the manner and to the extent hereinafter prescribed :

4[Provided that secured debts which, in accordance with the provisions of section 8 of the U. P. Zamindar's Debt Reduction Act, 1952, are not legally recoverable otherwise than out of the compensation and rehabilitation grant payable to the landlord shall be recoverable from the compensation and rehabilitation grant aforesaid as though the security had not been extinguished.]

- 
1. Rep. by the U. P. Tenancy Act, 1939 + (U. P. Act XVII of 1939) except in respect of the areas to which it does not apply.  
 2. See. Now the U. P. Tenancy Act, 1939 (U. P. Act XVII of 1939).  
 3. Add. by s. 10 of U. P. Act XIII of 1954.  
 4. Add. by s. 11 of U. P. Act XIII of 1954.

[The United Provinces Encumbered Estates Act, 1934]

**19. (1)** The Special Judge shall send the decrees granted under **Transmission**  
**of decrees to** sub-section (7) of section 14 to the Collector for execution in **Collector.**

accordance with the provisions of the next chapter. The Special Judge shall also inform the Collector of the order in which he has ranked the debts for priority.

1[(2) The Special Judge shall inform the Collector —

(a) of the amount of the secured debt which is not legally recoverable otherwise than out of the compensation and rehabilitation grant payable to the landlord in respect of the mortgaged estate ; and (b) of the nature and extent of the property mentioned in the notice under section 11 which he has found to be liable to attachment or sale in satisfaction of the debts of the application.]<sup>1</sup>

2[**19-A.** Where a decree has been passed by the Special Judge **Amendment of**  
**decrees before the commencement of the U. P. Encumbered Estates** **transmitted to**  
**(Amendment) Act, 1954, and the decree not having been already fully** **the Collector**  
 satisfied is in respect of a secured debt to which the U. P. Zamindar's Debt Reduction Act, 1952, applies the Special Judge shall, upon reduction of the amount of the debt in accordance with the provisions of the said Act —

(a) inform the Collector of the reduction so made ; and

(b) certify the amount, if any, of the decree aforesaid which is not legally recoverable otherwise than out of the compensation and rehabilitation grant payable to the landlord in respect of the mortgaged estate ;

and the decree transmitted to the Collector under section 19 shall be deemed to have been amended accordingly.]

**20.** The applicant may at any time within a period of one **Quashing of**  
**proceedings**

month from the day on which the Special Judge decides any claim under section 11 apply that the proceedings under this Act be quashed and the Special Judge shall quash such proceedings and pass such order as to the costs of the proceedings before him as he thinks proper, provided that the order of quashing proceedings shall not take effect unless the landlord within one month of such order pays into court the amount of any costs ordered by the Special Judge under this section.

**20-A.** 3[(1) Notwithstanding anything in this Act or any order passed in any proceedings under this Act —

(i) any application which was dismissed solely on one of the grounds mentioned in sub-section (6) of section 4 shall be restored and any application which was dismissed solely on the ground of some defect shall be amended in accordance with the provisions of sub-section (5) of section 4 ;

---

1[Add by s. 12 of U.P. Act XIII of 1954.](#)[2. Add. by s. 13, \*ibid.\*](#)[3 Add by s. 22 of U.P. Act XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

(ii) any proceedings in review to which the provisions of clause (a) or clause (b) or sub-section (1) of section 7 apply and which was stayed or dismissed shall be restored ;

(iii) any suit or proceeding to which the provisions of clause (b) of sub-section (1) of section 7 apply and which was dismissed shall be deemed to have been stayed under the provisions of clause (a) of that sub-section ;

(iv) if in the determination of any claim under the provisions of section 14 any interest has not been treated as principal solely on the

ground that it was converted into principal on December 31, 1916, or on the ground that it was converted into principal on or before December 31, 1916, in accordance with an express term in the original contract the amount due under such claim shall be re-determined in accordance with the provisions of this Act ;

(v) any order passed otherwise than in accordance with the proviso to sub-section (7) of section 14 shall be cancelled.

(2) Notwithstanding anything in sub-section (1) no amount shall be re-determined under the provisions of clause (iv) of that sub-section and no order shall be cancelled under the provisions of clause (v) thereof if the decrees have been sent to the Collector under the provisions of section 19 except on an application made to the Special Judge before the thirtieth day of November, 1939.]<sup>1</sup>

## CHAPTER V

### EXECUTION OF DECREE AND LIQUIDATION OF DEBTS

**Determination of public debts** 21. The Collector shall after hearing any objection preferred by of amount of the applicant, determine the amount of any public debt which has not **not reported** been reported under section 6 and which in accordance with rules by Collector framed by the [State Government]<sup>2</sup> in this behalf is to be liquidated under this chapter.

**Period for debts** 22. The Collector shall allow the debtor a period of two months **payment of** within which he may pay into court, the whole or any part of the amount due from him.

**Liquidation of means of all his debts. by debtor** 23. (1) If on the expiry of the said period the debtor shall have **debts by** paid into court the full amount due from him the Collector shall **money paid** discharge

(2) If on the expiry of the said period the debtor shall not have paid into court the full amount due from him the Collector shall expend the amount, if any, paid in discharging the debts in order of priority and shall proceed to liquidate the amount still remaining due in accordance with provisions of the following sections.

---

1[Add. by s. 22 of U.P. Act XI of 1939.](#)

2 Subs. by the A. O. 1950 for [Prov'l.Govt.]which had been subs. by the A. O. 1937 for (L. G.).

[The United Provinces Encumbered Estates Act, 1934]

<sup>1</sup>**[23-A.** The Collector shall require the Compensation Officer **Compensation** and Rehabilitation Grants Officer as may be necessary to place at his **rehabilitation** disposal in pursuance section 70 of the U. P. Zamindari Abolition Land **grant to be** **placed at the** Reforms Act, 1950, the amount of compensation money and **disposal of** rehabilitation grant payable to the landlord in respect of his **Collector** proprietary rights in land reported to be liable to attachment or sale under the provisions of sub-section (2) of section 19.

**23-B.** (1) Without prejudice to the provisions of section 8 of the **Liquidation of** **secured debt** U. P. Zamindars' Debt Reduction Act, 1952, the amount or the bonds **recoverable** on account of compensation or rehabilitation grant received by the **from** **compensation** Collector in pursuance of the requisition under section 23-A shall be **and**

expended or utilized by the Collector in liquidation of the amount of  
grant.

rehabilitation

the secured debt which having regard to the provisions of the U. P. Zamindars' Debt Reduction Act, 1952, was secured on the proprietary rights in land in respect of which such money has been received.

(2) If any balance out of the compensation or rehabilitation grant received by the Collector in pursuance of the requisition under section 23-A remains in the lands of the Collector after utilizing the same in accordance with the provisions of sub-section (1), such balance shall be utilized by the Collector in discharging the debts, other than the debts, referred to in the said sub-section in order of priority.]<sup>1</sup>

**24.** [ (1) The Collector shall then realize the value of such of  
value of debt or the debtor's property, other than proprietary right in land, but  
including proprietary rights in land in the areas which on the 7th day  
proceeds for of July, 1949 were included in a Municipality or a Notified Area under  
the provisions of the U. P. Municipalities Act, 1916 or a Cantonment  
under the provision of the Cantonment Act, Act, 1924, or a Town Area under the  
provisions of U. P. Town Areas Act, 1914, as shall have been reported by the Special  
Judge under the provisions of sub-section (2) of section 19 to be liable to attachment  
or sale :

Realization of  
property and  
application of  
liquidation of  
debts.

Provided that the Collector before passing orders under this section of the sale of any property shall hear any objection which the debtor may have to make to the sale of that property :

Provided also that, notwithstanding anything in any other section of this Act, the Collector may if he considers fit, sell, along with any building disposed of under this section, the proprietary rights of the applicant in a land occupied by such building or appurtenant thereto.

Provided further that the Collector shall leave the debtor at least one residential house and necessary furniture thereof if —

(a) the debtor owns such house and furniture and desires to retain it, and

<sup>1</sup>

[Add by s. 14 of U.P. Act XIII of 1954.](#)  
[2. Subs. by s. 5 of U.P. Act IV of 1935.](#)

[The United Provinces Encumbered Estates Act, 1934]

(b) such house and furniture is free from any mortgage or charge.]<sup>1</sup>

(2) The amount so realized shall be expended by the Collector in discharging the debts in order of priority.

(3) For the purpose of execution against property outside <sup>2</sup>[Uttar Pradesh] the decrees passed by the Special Judge shall be deemed to be decrees in favour of the Collector.

(4) For realizing the value of the debtor's property under this section the Collector may exercise all the powers of a civil court for the execution of a decree.

**25.**<sup>3</sup> [ \* \* \* ]

**26.**<sup>3</sup> [ \* \* \* ]

**27.**<sup>3</sup> [ \* \* \* ]

**28.**<sup>3</sup> [ \* \* \* ]

Method of  
installment

**29.** (1) The installments ordered under section 27 or section 28 **payment of** shall be paid by the debtor to the <sup>4</sup>[State Government] along with his **and recovery** land revenue and cesses and any such instalment not paid on due **of arrears.** date shall be recoverable as an arrear of land revenue.

(2) If the full amount of any two consecutive installments has not been paid within six months of the date on which the second of such instalment fell due, the whole amount remaining due from the debtor may, subject to rules framed by <sup>4</sup>[State Government] the be recovered as an arrear of land revenue.

(3) Notwithstanding anything in the United Provinces Court of Wards Act, 1912, the Court of Wards shall at the request of the <sup>4</sup>[State Government] assume charge of the estate of any debtor who has been ordered to pay instalments under

section 27 or section 28 and who has not paid two consecutive instalments within six months of the date on which the second of such installments fell due.

30. 5[ \* \* \* ]

31. 5[ \* \* \* ]

32. 5[ \* \* \* ]

33. 5[ \* \* \* ]

34. 5[ \* \* \* ]

**Person** 35. If at any time after the decrees granted by the Special Judge **entitled to**  
**possession of** have been sent to the Collector under the provisions of section 19 any **property to be**  
 person entitled to possession of any property under the provisions of this **put in**  
**possession.** Act applies to the Collector to be put in possession of such property the Collector  
 shall deliver possession of such property to him.

----- 1.  
[Subs. by s. 15 of U. P. Act XIII of 1954.](#)

2. Subs. by the A.O. 1950 for the United Province.

[3. Omit. by s. 16 of U. P. Act XIII of 1954.](#)

4. Subs. by the A. O. 1950 for [Provl.Govt.]which had been subs. by the A. O. 1937 for (L. G.). [5. Omit. by s. 16 of U.P. Act XIII of 1954.](#)

[The United Provinces Encumbered Estates Act, 1934]

36. 1[ \* \* \* ]

37. 1[ \* \* \* ]

38. 1[ \* \* \* ]

39. 1[ \* \* \* ]

40. 1[ \* \* \* ]

41. 1[ \* \* \* ]

42. 1[ \* \* \* ]

43. 2[When an application has been dismissed under **Consequences**  
 of quashing sub-section (3) of section 8] , (or) when an order has been passed  
 proceedings under section 20 quashing further proceedings under the Act, the  
 under section  
 20.

following consequences shall ensue, namely —

(a) the whole of the proceedings under this Act shall be set-aside ;

(b) notwithstanding anything contained in section 18 all rights and remedies and proceedings stayed 3[and all attachments of properties mentioned in statements filed under section 8, which had become null and void] under sub-section (1) of 4[section 7] shall revive to the creditors as if no action had been taken under this Act ; and

(c) in computing the period of limitation prescribed for any suit or other proceeding for the recovery of debts in respect of which a written statement has been filed under section 10 the period from the date of the 5[order of the Collector under section 6] to the date of order of the Special Judge quashing further proceedings under the Act shall be excluded ;

(d) in computing the period of limitation prescribed for any suit or proceedings in respect of a claim which has been stated before the Special Judge under section 11 the period from the date of the publication of the notice under sub-section (1) of that section to the date of the order of the Special Judge quashing proceedings under this Act shall be excluded.

6[ 44. (1) In each of the following cases, namely —

7 [(a) when the debt has been liquidated under section 23, section 23-B or section 24].

(b)8[ \* \* \* \* ]

Omit. by s. 16 of U.P. Act XIII 1954

2. Add. by s. 7 (1) of U. P. Act IV of 1935.

3. Ins. by s. 17 of U. P. Act XI of 1939.

4. Subs. for (s. 9) by s. 5 of U. P. Act IV of 1935.

5. Subs. for "for publication of notice under sub.s. (1) of s. 8" by s. 7 (2) of U. P. Act IV of 1935. 6. Subs. by s. 18 of U. P. Act XI of 1939.

7. Subs. by s. 17 (1) of U. P. Act XIII of 1954.

8. Omit. by s. 17 (2) U.P. Act XIII, 1954. *ibid.*

[The United Provinces Encumbered Estates Act, 1934]

(c)1[ \* \* \* \* ]

2[(d) when the decree or decrees received by the Collector under sub-section (1) of section 19 have been satisfied in full by a compromise out of Court, and the public debt, if any, determined by the Collector under section 21 has been completely liquidated.]

(2) When an application is dismissed or when proceedings under the Act have been quashed, the landlord shall cease to be subject to the disabilities mentioned in sub-section (3) of section 7 from the date of the order of the Special Judge dismissing the application, or quashing the proceedings.

(3) Notwithstanding anything contained in the Limitation Act, or in any other law for the time being in force in computing the period of limitations prescribed for any application for execution of any decree stayed under sub-section (2) and (3) of section 7 the period from the date of decree referred to in those sub-sections up to the date of the declaration under sub-section (1) of this section or the order of the Special Judge referred to in sub-section (2), shall be excluded.

## CHAPTER VI

### APPEAL AND REVISION

**Appeals** 45. (1) An appeal against any 3[\* \* \* \*] decree or order 4[finally disposing of the case] of a Special Judge of the first grade under this Act shall lie to the High Court 5[\* \* \* \*] The period of limitation for appeal under this sub-section shall be ninety days.

(2) An appeal against any 6[\* \* \*] decree or order [finally disposing of the case] of a Special Judge of the School grade under this Act shall lie to the District Judge. The period of limitation for appeals under this sub-section shall be thirty days.

7[(2-a) An appeal shall lie to the High Court 3[\* \* \*] from an appellate order or decree of a District Judge passed under sub-section (2) on one or more of the grounds mentioned in section 100 of the Code of Civil Procedure, 1908. The period of limitation for appeals under this sub-section shall be ninety days.]

8 [(3) [An appeal against any decision, decree or order of a Collector or Settlement Officer under this Act shall lie to the Commissioner, provided that an appeal filed before the commencement of the United Provinces Encumbered Estate (Amendment) Act, 1943

*Ibid.*

2. Add. by s. 2 of U. P. Act IV of 1946.

3. The word "decision" omit by s. 19 of U. P. Act XI of 1939.

4. Ins. by s. 19 of *ibid.*

5. The words (or Chief Court, as the case may be) omit by the A. O. 1950. 6. Omit by s. 19 of U. P. Act XI of 1939.

7. Add. by s. 19 of U. P. Act XI of 1939.

8. Subs. by 2(1) of U.P. Act X of 1943.

[The United Provinces Encumbered Estates Act, 1934]

shall lie to the Board of Revenue.]<sup>1</sup> The period of limitation for appeals under this sub-section shall be sixty days.

2[(3-A) The Board of Revenue may transfer for decision any appeal pending before itself to a Commissioner and may by order recall any appeal to transferred. The Board of Revenue may transfer any appeal pending before a Commissioner to another Commissioner.]

(4) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to appeals under this Act.

(5) <sup>3</sup>[Subject to the provisions of sub-section (2-a)] the decision on an appeal under this section shall be final <sup>3</sup>[and in deciding the appeal the appellate court may modify or alter or reverse any decree or order of the Special Judge, if in the opinion of the appellate court it be necessary to do so in the interest of justice and equity.]<sup>3</sup>

**46.4**[(1) Any court empowered under sub-sections (1), (2) and **for proceedings** (2-a) of section 45 to hear an appeal under this Act may of its own **and pass** **orders** motion, or on the application of any person concerned, call for the **thereon.** record of proceedings in any case under this Act pending in a court from which appeals lie to such court and after giving due notice to the parties concerned pass such order thereon consistent with the provisions herein contained as it thinks fit, and such order shall be final.

(2) The Board of Revenue may, on an application filed by any person concerned on any of the grounds mentioned in sub-section (1) of section 100 of the Civil Procedure Code, 1908, or at any time on its own motion for any sufficient reason, call for the record of proceedings of any case under this Act which is pending in the court of, or has been decided by, a Collector, a Settlement Officer or a Commissioner and after giving notice to the parties concerned pass such order thereon consistent with the provisions herein contained as it thinks fit, and such order shall be final.]<sup>4</sup>

**s[46-A.** The District Judge may of his own motion or on the application of any person concerned transfer any case pending before a Special Judge of the second grade to the court of a Special Judge of the first grade for any valid and sufficient reason and shall direct that the latter shall proceed with the case from the stage at which it was transferred.]

**47.** Except as provided in sections 45 and 46, no proceedings **to be** **Proceedings not** of the Collector or Special Judge under this Act shall be questioned in **questioned any** court.

----- <sup>1</sup>  
[Subs. for "An appeal against any decision, decree or order of a Collector or Settlement Officer under this Act shall be to the Board of Revenue", by s. 2 \(1\) of U. P. Act X of 1943.](#)

[2. Ins. by s. 2 \(2\) of ibid.](#)

[3. Add. by s. 19, U.P. Act No. XI of 1959.](#)

[4. Subs. by s. 3 of U.P. Act X of 1943.](#)

[5. Add by s. 20 of U. P. Act XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

## CHAPTER-VII

### MISCELLANEOUS

**Insolvency 48.** From the date of the application under section 4 up to the **proceedings.** date when the Collector has liquidated the debts in full under section<sup>1</sup>[Section 23-B or section 24]

(a) no creditor shall be entitled to present an insolvency petition against the landlord ; and

(b) the landlord may present a petition that he be adjudged to be insolvent and, if he does so, no further proceedings shall be taken under this Act, while the insolvency proceedings are pending.

(2) <sup>2</sup>[\* \* \*]

**Limited** **49. (1)** If the debts of a landlord are the debts due from his **application of** **the Act in** deceased ancestor which are legally recoverable only from certain **case of** property in the possession of the landlord, only such property and no **inherited** other property belonging to the landlord shall be dealt with under the **debts** provisions of this Act; and all references to the property of the landlord in the various sections of this Act shall be deemed to be references only to such property and to no other.

**Procedure application in to be subject to** (2) If in the course of inquiry it is proved that a landlord who has **when** applied for the application of this Act only in respect of debts due from **respect of** his deceased ancestor has appropriated any property received from **inherited debt found** such ancestor or that he owns also other debts which are recoverable from him personally and in respect of which claims have been preferred **personal debt** under 3[section 9] the Special Judge shall give him the option of either withdrawing his application or paying the personal debts and value of any property appropriated by him as aforesaid or having the whole of his property dealt with under this Act. In case he withdraws his application all proceedings under this Act shall be quashed. If he elects to pay his personal debts and the value of any property appropriated by him the special Judge shall give him such time for doing so as he shall think necessary and on the landlord paying the same shall proceed with the case. If the landlord fails to pay the same within the time allowed by the Special Judge his application shall be dismissed. If the landlord elects to have the whole of his property dealt with under this Act, the Special Judge shall require him to give particulars of all such property and after giving the claimants another opportunity of giving further particulars of property as required by section 10 shall take fresh proceedings under section 11 in respect of such property. If the landlord refuses or neglects to exercise any of the options provided in this sub-section the Special Judge shall dismiss his application :

4[Provided that the amounts decreed by the Special Judge in respect of the debts due from the deceased ancestor of the applicant

1.

[Subs. by s. 18 of U.P. Act XIII of 1954.](#)

[2. Omit. by s. 18 \(2\) of U. P. Act XIII of 1954.](#)

[3. Subs. by s. 5 of U.P. Act IV of 1935.](#)

[4. Add. By s. 21 of U.P. Act XI of 1939.](#)

[The United Provinces Encumbered Estates Act, 1934]

shall not without the consent of the applicant be recoverable in liquidation proceedings under this Act from any property other than that from which it might have been legally recovered had no application been made under this Act.]<sup>1</sup>

(3) In all cases in which proceedings are quashed or the application is dismissed under this section the Special Judge may make such order as to costs as he thinks proper.

**50.** If a landlord with regard to whom a notice has been published under 2[section 9] dies before a declaration has been made respect of him under section 44, —

**Death of proprietor before in liquidation**

(a) the proceedings under this Act shall be continued as nearly as may be possible in all respects as if the landlord were still living ; and

(b) any person succeeding to the whole or any portion of the landlord's property shall become subject in respect of that property to the disabilities imposed by sub-section (2) of 3[section 7] and shall continue so subject until a declaration has been made in respect of him under section 44.

**51.** Every investigation conducted by the Special Judge with **be deemed** a reference to any claim made to him under this Act, or to any matter connected with any such claim, shall be deemed to be a judicial

**Investigation to judicial proceeding.**

proceeding within the meaning of the Indian Penal Code, 1860; and Special Judge shall be deemed to be a public servant within the meaning of that Code.

**Special Judge to be deemed a the public servant within the meaning of the Indian Penal Code**

**52.** For the purposes of compelling the attendance of witnesses and the production of documents, and of awarding costs, Special Judge shall have the powers conferred on a civil court by **production of** the Code of Civil Procedure, 1908.

**Power to summon witnesses, the compel documents, and award costs**

- 53.** No suit or other proceedings shall be maintained against any public servant in respect of anything done by him in good faith pursuant this Act. **Bar of suits**
- 54.** (1) The 4[State Government] may make rules consistent **Power of State**  
Government to with the provisions of this Act for regulating the procedure of the **make rules.**

1.Add. by s. 21 of U. P. Act XI of 1939.2. Subs. for "s. 8" by s. 5 of U. P. Act IV of 1935.3 Subs. for "s. 9" by s. 5 of U. P. Act IV of 1935.

4 Subs. by the A. O. 1950 for [Prov'l.Govt.]which had been subs. by the A. O. 1937 for (L. G.).

5 For rules, see notes. —

no. 618-Rev., d. Aug. 10, 1935.

no. 687-Rev., d. Aug. 23, 1935.

no. 2683/I, d. Dec. 09, 1935.

no. 52-Rev., d. May. 19, 1936.

[The United Provinces Encumbered Estates Act, 1934]

Collector, to the Special Judge and the Settlement Officer in proceedings under this Act and generally for carrying out the purposes of this Act, may fix the legal fees chargeable under this Act and may confer the powers of the Collector under this Act on any Assistant Collector of the first class.

(2) Before making the rules under this section the [State Government]<sup>1</sup> shall publish a draft of the same in the <sup>1</sup>[official Gazette] and shall concurrently cause a copy of the said draft to be sent to every member of the <sup>2</sup>[Houses of the State Legislature].

(3)In making the rules finally the <sup>3</sup>[State Government] shall consider the opinions received by them as well as any opinion expressed by <sup>4</sup>[either House of the State Legislature].

**55.s[ \* \* \* \* ]**

no. 139-Rev/1, d. July. 4, 1936.

no. 277-Rev, d. Sep. 16, 1936.

no. 2580(1)/1, d. Dec. 4, 1936.

no. 2275-J, d. Mar. 25, 1937.

no. 449(3)/I—39, d. May. 22, 1939 and

no. 539/I—1935, d. May. 13, 1940.

In Gaz. 1935, Pt. VIII, p. 263, *ibid* 1935, Pt. VIII, p. 406, *ibid* 1935, Pt. I, p. 1657, *ibid* 1936, Pt. VIII. P. 124, *ibid* 1936, Pt. I. p. 796, *ibid* 1936, Pt. VIII, p. 234, *ibid* 1936, Pt. I. p. 1389, *ibid*. 1937, Pt. VIII p. 98, *ibid* 1939, Pt. I-A, p. 135 and *ibid*, 1940, Pt. I—A, pp 281—283.

no. 22/I—41, d. Oct. 10, 1941, in Gaz. 1941, Pt. IA, p. 311—313.

no. 233-RC/I—680—40, d. July. 4, 1941, in Gaz. 1941, Pt. IA, p. 217—219. no. 89/I-41, d.

Nov. 18, 1941, in Gaz. 1941, Pt. IA, p. 352—355.

no. 160-RC/I-44, d. June 24, 1941, in Gaz. 1941, Pt. IA, p. 189.

no. 45-RC/I, d. June 4, 1941, in Gaz. 1941, Pt. IA, pp. 167—168.

no. 2757(ii)/I-141-30, d. Dec. 20, 1941, in Gaz. 1941, Pt. IA, p. 591.

no. 2757(iii)/I-141-30, d. Dec. 20, 1941, in Gaz. 1941, Pt. IA, p. 591.

no. 40/I-651-41, d. Jan. 29, 1942, in Gaz. 1942, Pt. IA, p. 33.

no. 2581/I—89-41.d. Mar. 2, 1942, in Gaz. 1942, Pt. IA, p. 75.

no. 2079/I-216-42, d. Aug., 20, 1942, in Gaz. 1942, Pt. IA, p. 45A.

no. 2931/I-216-42, d. Sep. 28, 1942, in Gaz. 1942, Pt. IA, p. 331-32. no. 2754/I-651-41, d. Sep. 30, 1942, in Gaz. 1942, Pt. IA, p. 333.

no. 2224/I-336-41, d. Oct. 28, 1942, in Gaz. 1942, Pt. IA, p. 377.

no. 1129/I-362-41, d. Nov. 23, 1942, in Gaz. 1942, Pt. IA, p. 559.

no. 2173/I-216-42, d. Nov. 27, 1943, in Gaz. 1943, Pt. IA, p. 56-A.

no. 2480/I-112-43, d. Nov. 24, 1943, in Gaz. 1943, Pt. I, p. 385.

no. 2554/I-548-41, d. Sep. 11, 1943, in Gaz. 1943, Pt. IA, p. 43-A.

no. 1649/I-69-42, d. Oct. 26, 1943, in Gaz. 1943, Pt. IA, p. 49-A.

no. 3311/I-286-41, d. Jan. 18, 1944, in Gaz. 1944, Pt. IA, p. 4-A.

no. 7/I-265-41, d. Mar. 29, 1944, in Gaz. 1944, Pt. IA, p. 16-A.

no. 639/I-563-42, d. Apl. 12, 1944, in Gaz. 1944, IA, p. 18-A.

no. 3344(1)/I—651-41, d. April. 12, 1944, in Gaz. 1944, IA, p. 88.

no. 3385/I—216-42, d. April. 12, 1944, in Gaz. 1944, Pt. IA, p. 88:-89. no. 1824/I-216-42, d. July. 26, 1944, in Gaz. 1944, Pt. IA, p. 39-A.

no. 3215/I-241-44, d. Dec. 8, 1944, in Gaz. 1944, Pt. IA, p. 63-A369.

1 Subs. by A. O. 1950.

3. Subs. by the A. O. 1950 for [Chamber of the Provincial Legislature] which had been subs. by A.O. 1937 for [local L.C.]

4. Subs. by A. O. 1959 for [Prov'l.Govt.]which had been subs. by the A.O. 1937 for (L.G.).

[5. Omit. bysec. 19 of U.P. Act No. XIII of 1954.](#)

[The United Provinces Encumbered Estates Act, 1934]

56.1[ \* \* \* \* ]

57. The Collector may, subject to rules framed by the [State **Transfer of**  
**proceedings by** Government] transfer any proceedings under this Act which are **Collector**  
pending in his court to the court of an Assistant Collector of the first  
class empowered under section 54 and may withdraw any proceedings  
so transferred.

The Board of Revenue may transfer any proceedings under  
this Act from the Court of one Collector to that of any other Collector.

**Transfer of 58.**  
**proceedings by**  
**Board of**  
**Revenue**

59. Nothing in this Act shall affect the powers of the Collector  
under the Land Revenue Act, 1901, to collect the land revenue or any  
money recoverable as an arrear of land revenue.

**Saving**

z[60. The powers exercisable by the Collector under Chapter V,  
**powers of the** may, if the State Government so directs, be exercised by the Special **Collector**  
**by** Judge either generally or in any area, as may be specified.]  
**Judge"**

**"Exercise of**  
**the Special**

[Omit. by s. 19 of U. P. Act XIII of 1954.](#)

[2. Add by s. 21 of U. P. Act XIII of 1954.](#)

[1.](#)

