

WEST BENGAL NON AGRICULTURAL TENANCY ACT, 1949

West Bengal Act XX of 1949 THE WEST BENGAL NON-AGRICULTURAL TENANCY ACT, 1949.
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92. West Bengal Act XX of 1949* THE WEST BENGAL NON-AGRICULTURAL AMENDED ADAPTED TENANCY ACT, 1949. 1 West Act XXIV of 1953. West Ben. Act VIII of 1974. Ben. Act LIII of 1916. West Ben. Act XXII of 1986. The of Laws Order

1950. May, 1949.] An Act to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in West Bengal. WHEREAS it is expedient to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in West Bengal; is hereby enacted as follows;— CHAPTER 1. Preliminary. (1) This Act may be called the West Bengal Non-Agricultural 1. Tenancy Act, 1949. 2(2) It extends to the whole of West Bengal except the area in which the provisions of the Calcutta Thika Tenancy Act, 1949-1 apply but not excepting the area to which such provisions may have ceased or may hereafter cease to apply by virtue of any law for the time being in force. (3) It shall come into force on such date as the State Government by notification in the Official Gazette. appoint

2. In this Act unless there is anything repugnant in the subject or context,—(1) "Bengali year" means a year ending on the last day of the Bengali month of Chaitra; • This Act extended to Chandernagore with effect from the appointed day under section 5 of the Chandernagore (Assimilation of Laws) Act, 1955 (West Ben. Act of 1955), 'For the Statement of Objects and Reasons. see the Calcutta Gazette, Extraordinary of 1948. Part IV, page 342; and for the Proceedings of the West Bengal Legislative Assembly. see the Proceedings of the meetings of the West Bengal Legislative Assembly held on the 18th and the 19th January, 1949. (2) was first substituted by s. 2 of the West Bengal Non-Agricultural Tenancy (Amendment) Act, 1974 (West Ben. Act VIII of 1974). hereafter, the same by s. 2 of the West Bengal Non-Agricultural Tenancy Act 1986 (West Ben. Act XXII of 1986), Calcutta Tenancy Act, 1949 Ben. 11 or 1949) repealed and enacted by the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981

OVCSI Ben. .Ac, XXXV110f Act came imo force on the 1 5th May. 1949. vide Nmific.a!ion No. 3688L Rcr., dated the 61h May, 1949, published in the C.alcruta Gu:elfe. the 12th May

1949. Pan page 800.s This word within the square brackets was subsluited for the word "'Provincial" Shon title. exlenn and continence- IMnilions. 122 The West Bengal Nou-Agricultural Tenancy Act. 1949. [West Ben. Act (Chapter 2.) (2) "Colleclor" includes any officer appointed by Lhe Government to perform ail or any or the functions of a Collector under this Act; "landlord" means a person immediately under whom a non- (3) agricultural {enant holds and includes the Government; (4) "non-agricultural land" means land which is used for purposes not connected with agriculture or horticulture, and includes any land which is held on lease for purposes not connected wiLh agriculture or horticulture irrespective of whether it is used for any such purposes or not, but does not include— (a) a homestead to which the provisions of 2(the West Bengal Land Reforms Act. 1955,) apply, (b) land which '.vas originally leased for agricultural or horticultural purposes bul is bcng used for purposes not connected with agriculture or horticulture '.without Lhe consent either exptcss or implied or the landlord, if the period for which such land has been so used is less than Bvelve years, (c) land in Lhe districts of Darjeeling or Jalpaiguri which is held for purposes connecLed with the cultivation or manufacture of teal '[and] '(d) land vested in, or in the possession of, the State Govcmmenc in respect of which any licensc has been granted by the State Government: Provided that where an order has been raade under section 72 convening u parcel of land which is not non- agricultural land into a tenancy to which the provisions or 'his Act apply such land shall be deemed to bc non- agricultural land; (5) "non-agricultural tenanu" means a person who holds non-agriculLural land under another person and is, or but for a special contract would be, liable to pay rent to such person for that land but does not include person who holds any premises or part of any premises, situated on non-agricultural 'See fool-note 5 on page 121. anre.. mese words and figures and the marginal reference wit.hin 'he square brackels were substituted for the words and figurs "section 182 of the Bengal Tenancy ACI. 1885." and (he marginal reremnce "VIII or 1885." by s.. 30} of the Wesl Bengal Non-Agricultural Tenancy (Amendment) Act, 1974 (Wesl Ben. Act VIII of 1974). The word "and" was ornitied by s. 2(a)(i) or the West Bengal Non-Agricultural Tenancy (Amendmenl) ACI. 1953 Ben. .WXIV0f 195.1). word L'ond" added by s.2 ibid. sub-clause (d) was added by s. ibid. & These words within the sequarc brackets were substituted (or the words pwrson who holds any such land DD which any premises occupied by such person are siruated if hv nprenn whom €urh or '[Wes* Ben. Act X of The Wesl Bengal Non-Agricultural Tenancy Act, 1949. XX or 1949.] xor or 1882- (Chapær II.—Classes of non-agricultural renants.—Secrions 3, 4.) land and erecded or owned by another person, and who is, or bul for a special contract would be, liable to pay rent for such premises or such parl of the premises Io such person.] Explanation.—In this clause ' 'premises" means any building, such as a house, manufactory, warehouse, stable, shop or hut whether constructed or masonry, bricks, concrete, wood, mud, metal or any 0Lher material whalsocver and includes any land apperlaining LO such building; (6) "prescribed" means prescribed by rules nmade under lhis Act; (7) "pucca structure" means any slructure constructed mainly of brick, stone or concrete or any combination of Lhese materials; (8) all words and exprssions used bul not defined in lhis Act and used in '[the West Bengal Land Reforms Act. 1955,] or the Transfer of Properly Act, 1882, have the same meanings as in Lhosc Acts

CHAPTER 11. Classes of non-agricultural tenants. 3. (1) There shall be, for the purposes of this Act, classes of non-agriculLuraE tenants, namely: (a) (cnanLS, and (b) under-tenants. [he following (2) "Tenant" means a person who has acquired right to hold non- agricultural land directly under Lhe State] for any of Ille purposes provided in this Act, and includes also the successors in interest of persons who have acquired such a right. (3) "Under-tenant" means a person, who has acquired a righL to hold non-agricultural land for any of the purposes provided in this Act either immediately or mediately under a tenant and includes also (he successors in interest of persons who have acquired such a right

4. A non-agricultural LenanL may hold non-agricultural land for—(a) h0lneszcad or residcmial purposes; (b) manufacturing or business purposes; or (c) other purposes. 'These words and figures and the marginal reference wcrc subslituledfor the words and figures •the Bengal Tenancy ACI. 188.5." and the marginal reference "VIII of 1885." by s. .3(2) or the Wesl Bengal Non-Agricultura] Tenancy (Amendrnenl) ACI. 1974 (West Ben. Act VIII of 51he words wilhin the square brackets were sub*i101Ed for the words "from a proprietor OT rink' kvc .4 123 Clascess of non- agriculLura] lenanLS. Purposes for which non- lenanl may hold non- land. 124 Tenqncies non- agricultural len,m. Manncrof use or non-

agricultural lands. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter of non-agricultural tenancies.—Section 5.— Chapter 6.) A non-agricultural tenant shall be entitled to hold any non-agricultural land— (a) for homestead or residential purposes if such tenant is entitled, under the terms of any agreement between himself and the landlord, to use or is actually using such land for homestead or residential purposes; (b) for manufacturing or business purposes if such tenant is entitled, under the terms of any agreement between himself and the landlord, to use or is actually using such land for carrying on [herein any commercial or industrial enterprise or any trade or business; and (c) for other purposes if such tenant is entitled, under the terms of any agreement between himself and the landlord, to use or is actually using such land for any purpose not connected with agriculture or horticulture other than (i) the purposes specified in clauses (a) and (b), (ii) [the exercise of any forest-rights or rights over fisheries or rights to minerals in such land. CHAPTER 111. Tenants. 6. (1) A tenant holding non-agricultural land may use such land in any manner which is not inconsistent with the purposes of the tenancy and which does not materially impair the value of such land. (2) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 7 or section 8 apply shall be entitled— (a) to erect any structure including any pucca structure; (b) to dig any tank; and (c) to plant, enjoy the flowers, fruits and other products of, and fell and utilize or dispose of the timber of, any tree on such land: Provided that he shall not be entitled to convert any such land into a place of religious worship without the previous consent of the landlord. (3) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 9 apply shall be entitled— (a) to erect any structure other than a pucca structure; (b) to plant and enjoy the flowers, fruits and other products of, any tree, and (c) to fell and utilize or dispose of the timber of any tree planted by him on such land: Provided that he shall not be entitled to convert any such land into a place of religious worship without the previous consent of the landlord. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949. 125 Incidents of certain tenancies. 1882. (Chapter 7.) 7. Notwithstanding anything contained in any other law for the time being in force or in any contract— (1) if any non-agricultural land has been held 'h', 'i' or without any lease having been entered into by the landlord and the tenant from before the commencement of the Transfer of Property Act, 1882, or if the origin or any tenancy is unknown, or (2) if the non-agricultural land comprised in any tenancy which has been or is created after the commencement of the Transfer of Property Act, 1882, has been held for a term of not less than twelve years without any lease in writing, or (3) if any non-agricultural land has been held for a term of not less than twelve years under a lease in writing but no term is specified in such lease, or (4) if any non-agricultural land held under a lease in writing for a period specified therein continues to be held with the express or implied consent of the landlord after the expiration of the time limited by such lease and the total period for which such land is so held is less than twelve years, or (5) if the landlord has allowed pucca structures to be erected on any non-agricultural land held under a lease in writing for a period specified therein, whether such structures have been erected,— (a) before the expiration of the said period, or (b) where such non-agricultural land continues to be held with the express or implied consent of the landlord after the expiration of the said period, during the period such non-agricultural land so continues to be held, (i) the tenant holding the non-agricultural land comprised in such tenancy shall not be ejected by his landlord from such land except on the ground that he has used such land in a manner which renders it unfit use for the purposes of the tenancy, (ii) the interest of the tenant in the non-agricultural land comprised in such tenancy shall, in the case where such tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property: 126 Renewals of lease or tenancies held for not less than twelve years and succession. 10. and transfer of, tenancies, The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter 8.) Provided that in any case in which under the law of inheritance to which such tenant is subject, his other property goes to the Government, his interest in such land shall be extinguished, and (iii) the non-agricultural land comprised in such tenancy or a share or a portion thereof together with the interest of the tenant therein shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner, and to the same extent as his other immovable property. 8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any non-agricultural land is held under a lease in writing for a term of not less than twelve years specified in such lease, the tenant holding such land shall, on the expiration of the period so specified, be entitled to the option of successive renewals or such lease on such fair and reasonable

conditions as to rent as may be agreed upon between the landlord and such tenant. Provided that no premium or salary be payable in respect of such renewal, (2) If [here is any dispute as to whether any condition for the renewal of a lease under sub-section (1) is fair and reasonable, the landlord or the tenant may apply in the prescribed manner to the Court, and the Court shall thereupon determine the conditions for renewal of the lease which it considers fair and reasonable in the circumstances of the case. (3) A tenant holding non-agricultural land comprised in a tenancy to which the provisions of sub-section (E) apply shall not be ejected by his landlord from such land during the term specified in the lease, nor unless the tenant has on any occasion exercised his option of renewal, during the term of such renewal except on the ground that he has used such land in a manner which renders it unfit for use for the purposes of the tenancy. (4) The interest of the tenant in any non-agricultural land held under a lease to which the provisions of sub-section (1) apply shall, during the term specified in the lease, or where the tenant has exercised his option of renewal, during the term of such renewal— (i) in the case where such tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property; This word within the square brackets was substituted (or the word "Crown" by para. 4(1) of the Adaptation of Laws Order

1950. XX of 1949. The Bengal Tenancy Act, 1949. (Chapter 9.) Provided that in any case in which, under the law or inheritance to which such tenant is subject, his other property goes to the [Government], his interest in such land shall be extinguished; and (ii) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property. 9. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, if any non-agricultural land has been held for a term of more than one year but less than twelve (a) under a lease in writing for a term of more than one year but less than twelve years to which the provisions of clause (5) of section 7 do apply, or (b) without a lease in writing, or (c) under a lease in writing but no term is specified in such lease, the tenant holding such non-agricultural land shall be liable to ejectment on one or more of the following grounds and not otherwise, namely; (i) on the ground that he has used such land in a manner which renders it unfit for use for the purposes of the tenancy; (ii) on the ground that the term of the lease has expired in the case of tenancies of the class specified in clause (a); (iii) on the ground that the tenancy has been terminated by the landlord by six months' notice in writing expiring with the end of a year of the tenancy served on the tenant in the prescribed manner in the case of tenancies of the class specified in clause (b): Provided that tenant shall not be liable to ejectment on the ground specified in clause (iii) except on payment of such reasonable compensation as may be agreed upon between the landlord and the tenant or if they do not agree, as may be determined by the Court on the application of the landlord or such tenant. See footnote 1 on page 126. ante. Incidents of non-agricultural land held for less than twelve years. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Bengal. Act Restated on transfer. (Chapter 9A.) (2) The interest of the tenant in any non-agricultural land to which the provisions of sub-section (1) apply shall,— (i) in the case where such tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other immovable property: Provided that in any case in which under the law of inheritance to which such tenant is subject his other property goes to the Government, his interest in such land shall be extinguished; and (ii) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property. 29A. (1) Notwithstanding anything contained elsewhere in this Act or in any law for the time being in force or in any contract, express or implied or in any custom or usage, to the contrary, no person with whom any land is or has been sold by or on behalf of the State Government for the purpose of constructing a dwelling house thereon without any premium or salary being charged for such settlement, shall be entitled to transfer such land except by way of a simple mortgage or a mortgage by deposit of title-deeds in favour of a bank, or a co-operative society or a local or statutory authority or the Life Insurance Corporation of India: Provided that any person who seeks to exchange his land with some other land on the ground that the other land serves his purpose better for constructing a dwelling house (hereon, may apply to the Collector, in such manner as may be prescribed, for permission to do so and the Collector may, upon such enquiry as he considers necessary, either grant or refuse to grant the permission sought for by him. (2) If the Collector, on his own motion or on application made to him in that behalf, after giving the parties concerned an opportunity of being heard and after making such enquiry as may be considered necessary is satisfied that a transfer of

any land has been made in contravention of the provisions of sub-section he may, by order in writing, annul the transfer or both the set (lcmenL and lbe transfer, as may be deemed necessary, Explanation.—For the purposes of this section, 'bank' means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 and includes the State Bank of India constituted foot-note I on page 126. ante. Section 9A was inserted by s. of the West Bengal Non-Agricultural Tenancy (Amendment) 1976 of 1976). IO of 1949. The West Bengal Non-Agricultural Tenancy Act, 1949, XX of 1949.] 23 of 1955. 3S or 1959?" of 1970. 21 of 1976, (Chapter IO. 11.) under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank as defined in clause (d) of section 2 of the Bank-in!! Companies (Acquisition and Transfer of Undertakings) Act, 1970, a Regional Rural Bank established under the Regional Rural Banks Act, 1976, a banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 and also includes any other financial institution which may be notified in this behalf by the State Government

10. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract where any non-agricultural land held by a non-agricultural tenant or any share or portion thereof is used—(a) for any immoral, illegal or unsocial purpose, or (b) in any manner so as to become a source of grave danger to the public peace or public safety, a co-sharer tenant or the landlord of the non-agricultural tenant may, if such land, or share or portion is contiguous to any land in the actual possession of such co-sharer tenant or landlord, as the case may be, apply to the Court for such land or share or portion to be transferred to himself on payment of such consideration as may be determined by the Court. Provided that if two or more persons apply under this section for such transfer, the Court shall determine the priority of the rights of the respective applicants to purchase under this section. 11. (1) The rent payable by a tenant in respect of any non-agricultural land shall, except in the case where such land is held on a fixed rent or free rent either under a contract or under a decree or order passed by a competent Court or authority, be liable to enhancement as provided by this Act, and not otherwise. (2) The rent payable by a tenant may be enhanced up to such limit as the Court thinks fair and equitable in the circumstances of the case: Provided that the rent shall not be enhanced so as to exceed the rent previously payable by the tenant by more than twelve and a half per centum. (3) In determining a fair and equitable rent under sub-section (2), the Court shall, subject to such further provisions as may be prescribed in this behalf, take into consideration— (a) the existing rent and the period during which it has remained without enhancement, (b) as far as can expediently be ascertained, the rent paid to other landlords for non-agricultural lands in the vicinity with similar advantages or of a similar description; 129 Special incidents in case of misuse of non-agricultural land. Enhancement of rent. 130 Provisions as to enhancement of rent on ground of landlord's improvement. Power to order permanent or temporary enhancement. Limitation of right to enhancement. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter 12-14.) (c) the market value of the non-agricultural land and the rent which would be payable if the rate were fixed at not more than four per centum of such market value; (d) the special conditions and incidents, if any, of the tenancy; (e) any cost incurred in making any improvement to or on the non-agricultural land or in converting such land for the purpose for which it is being used according to the conditions of the tenancy, 12. (1) When an enhancement is claimed on the ground of a landlord's improvement,— (a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with the provisions of this Act; and (b) in determining the amount of enhancement the Court shall have regard to, (i) the increase in the value of the non-agricultural land caused or likely to be caused by the improvement, (ii) the cost of the improvement, (iii) the expenditure (if any), required for utilising the improvement, and (iv) the existing rent and the ability of the non-agricultural tenant to bear a higher rent. (2) A decree under this section shall, on the application of the tenant, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect 13. If it thinks that an immediate increase of rent will cause hardship, the Court may direct that the enhancement shall take effect gradually at such intervals and by such increments extending over a period not exceeding five years as the Court may fix in this behalf. 14. (1) When a tenant is admitted to the occupation of any non-agricultural land, the rent payable by such tenant in respect of such land shall not, except on the ground of the landlord's improvement, be enhanced during the fifteen years next following the date on which the tenant has been so admitted to the occupation of such land, (2) When the rent of a tenant has been enhanced by

(he Court or in pursuance of the conditions of a it shall not be further enhanced during the fifteen years next following the date on which it has been last so enhanced and for the purposes of this section if an order of gradual The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] (Chapter 15.—Chapter IV.—Under-tenants.—Sections 16-18.) enhancement of such rent has been made by a Court in accordance with the provisions of section 131 The full rent fixed by such order shall be deemed to have come into effect from the date of such order: Provided that the landlord of such tenant may institute a suit for the enhancement of the rent of such tenancy during the said period or fifteen years on the ground of any improvement effected in the non-agricultural land comprised in such tenancy by, or wholly or partly at the expense of the landlord during such period

15. The rent of a tenancy may be reduced by the Court if the Court considers that the rate of rent payable by such tenant is unfair and inequitable, and in determining what rent is fair and equitable under this section the Court shall have regard to the provisions of sub-section (3) or section 11. CHAPTER IV. Under-tenants

16. The provisions of this Chapter shall apply to all under-tenants wherever their tenancies were created before or after the commencement of this Act

17. An under-tenant may be admitted to the occupation of any non-agricultural land on such terms and conditions consistent with the provisions of this Act as may be agreed upon between himself and his landlord

18. An under-tenant shall be liable to pay such rate of rent for the non-agricultural land comprised in his tenancy as has been agreed upon between himself and his landlord at the time of his admission to the occupation of such land: Provided that the rate of rent payable in respect of the non-agricultural land comprised in any tenancy by an under-tenant who has been admitted to occupation of such land after the commencement of this Act shall not, except in the case where such land is held on a fixed rent or free of rent by the tenant under whom such under-tenant holds, exceed one and a half times the rate of rent payable by such tenant in respect of such land.

Reduction of rent. Application of Chapter. Terms on which an under-tenant may be admitted to occupation of non-agricultural land. Rate of rent payable by an under-tenant. 132 Enhancement of rent. Ejection of an under-tenant. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter 19, 20,) 19. (t) Notwithstanding anything contained in any other law for the time being in force or in any contract, the rent of an under-tenant shall be liable to enhancement up to a limit not exceeding one and a half times the rent for the time being payable in respect of the non-agricultural land comprised in the tenancy of such under-tenant by the tenant under whom such under-tenant holds in the case where such tenant does not hold such land on a fixed rent or free of and up to such limit as the Court may, subject to such provisions as may be prescribed in this behalf, think fair and equitable in other cases. (2) For the purposes of sub-section (1) the rent for the time being payable in respect of the non-agricultural land comprised in the tenancy of an under-tenant by the tenant under whom such under-tenant holds shall, in the case where such under-tenant has been admitted to the occupation of only a portion of the land comprised in the tenancy or such tenancy, be determined in such manner as may be prescribed. 20. Notwithstanding anything contained in any other law for the time being in force or in any contract, an under-tenant shall, subject to the provisions of this Act, be liable to ejection on one or more of the following grounds, and not otherwise, namely: (a) on the ground that he has used the non-agricultural land comprised in his tenancy in a manner which renders it unfit for use for the purposes of the tenancy; (b) on the ground that the term or his lease has expired when he holds the non-agricultural land under a written lease. Provided that in the case where any non-agricultural land is held by an under-tenant without a lease in writing or under a lease in writing but no term is specified in such lease, he shall be also liable to be ejected from such land after having given him six months' notice in writing expiring with the end of a year of the tenancy and the payment of such reasonable compensation as may be agreed upon between the landlord and the under-tenant, or in the case where they do not agree, as may be determined by the Court on the application of the landlord or such under-tenant. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] Ben. Act (Chapter 21, 22.—Chapter V.—Provisions as to transfer of non-agricultural land.—Section 23.) 21. The interest of an under-tenant in any non-agricultural land (a) in the case where such under-tenant dies intestate in respect of such interest, be transmitted by inheritance in the same manner as his other

immovable property: Provided that in any case in which under the law of inheritance LO which such under-tenant is subject his other property goes to the '(Government], his interest in such land shall be extinguished; and (b) subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as his other immovable property

22. Notwithstanding anything contained in any other law for the time being in force or in any contract, in the case of the tenancy of an under-tenant—(a) the provisions of section 10 shall apply; and (b) "here (i) the conditions referred to in clauses (1), (2), (3), (4) or (5) or section 7 are fulfilled, or (ii) the tenancy is held under a lease in writing for a term of not less than twelve years specified in such case, the under-tenant shall have all the rights and liabilities of a tenant as set forth in section 7 or section 8, as the case may be, and the provisions of sections 6, and 11 to 15 shall, and the provisions of sections 18, 19 and 20, in so far as they are inconsistent with the provisions of this section shall not, apply

CHAPTER V. Provisions as to transfer of non-agricultural land. (1) Every transfer of non-agricultural land held by a non-agricultural tenant or of any portion or share thereof shall, except in the case of a bequest or a sale in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, be made by registered instrument and a Registering Officer shall not accept or register any such instrument unless the sale "See foot-note I on page 126. 133 Other incidents or tenancies or special of tenancies of under-tenant-c., Manner of transfer of non-agricultural land and notices to landlords. 134 Power of the co-sharer or the immediate landlord, lord of transferor or transferee The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter V.—Provisions as to transfer of non-agricultural land.— Section 24.) price or, where there is no sale price, the value of the land or portion or share [hereof transferred is seated therein, and unless it is accompanied by— (a) a notice giving the particulars of the transfer in the prescribed form, together with the process fee prescribed for the service thereof on the landlord who is not a party to the transfer, and (b) such notices and process fees as may be required by sub-section (2) In the case of a bequest of such land or portion or share (hereof, no Court shall grant probate or letters of administration until the applicant files a notice similar to, and deposits a process fee or the same amount as, that referred to in clause (a) of sub-section (1). (3) A Court or Revenue-officer shall not confirm the sale of such land or portion or share thereof put to sale in execution or a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such land or portion or share [hereof until the purchaser or the mortgagee, as the case may be, files a notice similar to and deposits a process fee of the same amount as that referred to in sub-section (1). (4) If the transfer of a portion or share of such land be one to which the provisions of section 24 apply there shall be filed notices giving particulars of the transfer in the prescribed form together with process fees prescribed for the service thereof on all co-sharer tenants of such land who are not parties to the transfer. (5) The Court, Revenue-officer or Registering Officer, as the case may be, shall in the prescribed manner serve the notices for which this section provides and after service of such notice the landlord shall not refuse to recognise the transferee as the tenant in respect of the land or portion or share thereof transferred nor omit to enter the name of the transferee in the rent-roll of the landlord in place of that of the transferor or, where only a portion or share of the interest or the transferor has been transferred, along with the name of the transferor. 24. (1) If the entire non-agricultural [and in a non-agricultural tenancy is transferred, the immediate landlord, or if a portion or share of such land is transferred, the immediate landlord or one or more co-sharer tenants of such land may, within four months of the service or notice Ben. Act 111 The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.1 (Chapter V.—Provisions as to transfer of non-agricultural land.— Section 24.) issued under section 23, apply to the Court for such land or portion or share thereof to be transferred to himself or themselves, as the case may be: 135 Ben, Provided that— (a) of both a co-sharer tenant and the landlord apply under this section and comply with the provisions herein contained the co-sharer tenant shall have the prior right to purchase under this section; (b) the immediate landlord of the non-agricultural tenant shall not have any right to purchase under this section unless the non-agricultural land or the share or portion thereof so transferred is contiguous to any land in the actual possession of the landlord and the Court is satisfied that such use by such landlord for any of the purposes specified in section 4'. and (c) in the case of transfer in execution of a decree or certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such land, the immediate landlord of the non-agricultural tenant shall not have any right to purchase under this section,

(2) The application under sub-section (1) shall be dismissed unless the applicant at the time of making it deposits in Court the amount of the consideration money or the value of the property or the portion or share therein transferred as stated in the notice served on the applicant under section 23 together with compensation at the rate of five per centum of such amount. (3) If such deposit is made, the Court shall give notice to the transferee to appear within such period as it may fix and to state what other sums he has paid in respect of rent for the period after the date of transfer or in annulling encumbrances on the property. The Court shall then direct the applicant, including any person whose application under sub-section (4) is granted, to deposit within such period as the Court thinks reasonable such amount as the transferee has paid on this account together with interest at the rate of six and quarter per centum per annum with effect from the date on which the transferee made such payments. (4) (a) When an application has been made by one or more co-sharer tenants under sub-section (1) any of the remaining co-sharer tenants including the transferee, if one of them, may within the period of four months referred to in the said sub-section or within one month of the 136 The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter V.—Provisions as to transfer of non-agricultural land.—Section 24,) any co-sharer tenant who has not applied under sub-section (1) or has not applied to join under this sub-section, shall not have any further right to purchase under this section. (b) Such application to join as a co-applicant shall be dismissed unless within such period as the Court may fix, the applicant deposits in Court for payment to the applicant under sub-section (1), such sum, as the Court shall determine as the share to be paid by him for the purposes of sub-section (2). If such deposit is made, the Court shall grant the application to join and thereafter such applicant shall be deemed to be an applicant under sub-section (1). (5) If the deposits required under sub-section (2) or clause (b) or sub-section (4), as the case may be, and under sub-section (3) are made, and, in the case where the application is made by the immediate landlord, the Court is satisfied that the conditions referred to in sub-section (1) have been fulfilled, the Court shall make an order allowing the application and directing that the deposits made under sub-sections (2) and (3) shall be paid to the transferee or such persons as the Court thinks fit: Provided that if both the immediate landlord and the co-sharer tenant have applied under this section and the application of the co-sharer tenant is allowed under this sub-section, the application of the immediate landlord shall be dismissed. (6) Notwithstanding anything contained in any other law for the time being in force, the Court shall, if the applicant under sub-section (1) or any person whose application under sub-section (4) is granted disputes the correctness of the amount of the consideration money as stated in the notice issued under section 23, inquire into such dispute before making an order under sub-section (5) and after giving the transferee an opportunity of being heard determine for purposes of this section the amount of the consideration money which the transferee has actually paid for the transfer of the property or the portion or share thereof, as the case may be, and the amount so determined shall be deemed to be the consideration money referred to in sub-section (2) and where the amount of the consideration money has been so determined the deposit made under that sub-section shall for the purposes of sub-section (5) be the amount so determined together with the compensation at the rate of five per centum of such amount. (7) In making an order under sub-section (5) in favour of more than one co-sharer tenant, the Court may apportion the property comprised in the portion or share transferred among the applicants in such manner as it deems equitable after taking existing possession into consideration: The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] (Chapter V.—Provisions as to transfer of non-agricultural land.—Section 24.) the Court shall so apportion the said property or portion thereof on the request of any applicant and, in this case, may require the applicant who makes such request to deposit, within such period as the Court may fix, such further sums as the Court considers necessary for equitable distribution among the remaining applicants; Provided that no apportionment order under this sub-section shall operate as a division of the tenancy, (8) From the date of the making of the order under sub-section (5) (i) the right, title and interest in the non-agricultural land or portion or share thereof accruing to the transferee from the transfer shall, subject to any orders passed under sub-section (7) be deemed to have vested free from all encumbrances which have been annulled or created after the date of transfer, in the immediate landlord or in the co-sharer tenant, as the case may be, whose application to purchase has been allowed under this section (ii) the liability of the transferee for the rent due from him on account of the transfer shall cease, and (iii) the Court, on further application of such applicant may place him in possession of the property vested in him. (9) An appeal from any order of a Court under this section shall lie to the Civil Appellate Court having jurisdiction (10

entertain such appeals, (IO) Nothing in (his section shall take away (he right of pre-emption conferred on any person by Muhammadan Law. (11) Nothing in this section shall apply to (a) a transfer to a co-sharer in the tenancy whose existing interest has accrued otherwise than by purchase, or (b) a transfer by exchange, sub-lease or partition, or (c) a transfer by bequest or gift (including beba but excluding beba-hil-ewaz for any pecuniary consideration) in favour of the husband or wife of the testator or the donor or of any relation by consanguinity within three degrees of the testator or donor, or (d) a wakf in accordance with the provisions of the Muhammadan Law, or 137 138 Saving as in instrument where land-lord is not Revision or preparation or record- or-rights. and publication of record. of-rights, The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter V.—Provisions as to transfer of non-agricultural land.— Sections 25, 26.—Chapter VI.—Record-of-rights and settlement of rents.—Sections 27, 28.) (e) a debenture or any other dedication for religious or charitable purposes without any reservation of pecuniary benefit for any individual. Explanation.—A relation by consanguinity shall, for the purposes of this sub-section, include a son adopted under the Hindu Law

25. Notwithstanding anything contained in the Indian Evidence Act, 1872, nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord or the pannance, the amount or fixity of rent, the area, the transferability or any incident or any tenancy referred to in such instrument. 26. (1) In this chapter "transferee", "purchaser" and "mortgagee" include (their successors in interest. (2) In section 23,— "transfer" does not include partition or a sub-lease, or, until (a) a decree or order absolute for foreclosure is made, simple or usufructuary mortgage or mortgage by conditional sale; (b) "transferor" includes a person whose interest in any non-agricultural land or portion of share thereof has terminated in the circumstances mentioned in sub-section (2) or sub-section (3) of the said section

CHAPTER VI. Record-of-rights and settlement of rents. 27. (1) State Government may, if it so thinks fit, make an order directing that a survey be made and the record-of-rights be revised or prepared by a Revenue-officer in respect of all non-agricultural lands in any district or part thereof in accordance with such rules as may be made by the State Government in this behalf. (2) When an order is made under sub-section the Revenue-officer shall record, in the record-of-rights to be revised or prepared in pursuance of the order, such particulars as may be prescribed. 28. (1) When a record-of-rights has been revised or prepared, the Revenue-officer shall publish a draft of the record so revised or prepared in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made during such period to any entry [herein or to any omission therefrom. 'Section 27 was substituted for the original section by s. 5 of the West Bengal Non-Agricultural Act, 1974 (WCSI den. Act V [11 1974). Sections 28 and 28A have been substituted for the original section 28 by s. 6. ibid. of 1872. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] (Chapter VI.—Record-of-rights and settlement of 28.) (2) When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue-officer shall finally revise or prepare the record and cause such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation. (3) Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2) for different parts of areas. (4) An officer specially empowered by the State Government may, on application within one year from the date of final publication of the record-of-rights under sub-section (2), revise or amend in the record finally published in accordance with the provisions of sub-section (2) after giving the persons interested an opportunity of being heard and after recording reasons therefor. (5) Any person aggrieved by an order passed in revision under sub-section (4) may, within such period and on payment of such court-fees as may be prescribed, appeal in the prescribed manner to (a) the Settlement Officer having jurisdiction, where the order is passed by officer subordinate to him, or (b) the Director of Land Records and Surveys, West Bengal, where the order is passed by the Settlement Officer, and if the order passed in appeal by the Settlement Officer or the Director of Records and Surveys, West Bengal, as the case may be, shall be final. (6) The certificate or final publication recorded in sub-section (2), or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which the record-of-rights relates is wholly or partly situated, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date [hereof. (7) The State Government may, by notification in the

Official Gazette, declare with regard to any area specified in the notification that the record-of-rights for every village included in such area has been finally published and such notification shall be conclusive proof of such publication. (8) In any suit or other proceeding in which a record-of-rights revised or prepared and finally published under this Chapter, or a duly certified copy of (the record or any extract therefrom), is produced, such record-of-rights shall be presumed to have been finally published. 139 140 Connection of entry in record of Order for fair and equitable rents of non-agricultural lands and preparation or a settlement—Section 28A, 29. (9) Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (4) or corrected under section 28A shall, subject to any modification by an order on appeal under sub-section (5), be presumed to be correct until it is proved by evidence to be incorrect. (10) The record-of-rights or non-agricultural lands of a mauza revised or prepared under this section shall form a separate part of the volume or record-of-rights of agricultural lands or the same mauza prepared under the provisions of Chapter VII of the West Bengal Land Reforms Act, 1955. 128A. Any Revenue-officer specially empowered by the State Government in his behalf may, of his own motion at any time or on application within one year from the date of certificate of the final publication of the record-of-rights under sub-section (2) of section 28, correct any entry in such record-of-rights which he is satisfied has been made owing to a bona fide mistake: Provided that no such correction shall be made unless reasonable notice has been given to the parties concerned to appear and be heard in the matter and if any appeal affecting such entry has been made under sub-section (5) of section 28 until the appeal is finally disposed of.

29. When an order has been made under section 27 in respect of any [district] or part thereof of which a settlement of land revenue is being or is about to be made, the State Government may make an order directing the Revenue-officer, after recording under sub-section (2) of section 27 those particulars which are relevant and after publication of the draft of the record-of-rights—(a) to estimate fair and equitable rents for non-agricultural tenants of every class in accordance with the provisions of this Act, and (b) to estimate the rental value for all or any non-agricultural lands which are held khas by a landlord, 'See footnote 2 on page 138 ante. This word within the "square brackets" was substituted for the words area, estate or tenure" by s. 7(i) of the West Bengal Non-Agricultural Tenancy (Amendment) Act, 1974 Act VII of 1974, 'See (footnote 5 on page 121. ante. A Notification, issued under section 29 of the Act, directing the Revenue Officer to estimate fair and equitable rents, etc. in respect of certain Mas mahal estates in the district of Jalpaiguri see notification No. 4930 L.R., dated 8.5.50. published in the Calcutta Gazette of 1950, Part I, page 944. words and figures within the square brackets were substituted for the word and figures "section 28" by s. 7(ii) of the West Bengal Non-Agricultural Tenancy (Amendment) Act, 1974 Act VII of 1974, West Bengal Act No. XX of 1949. (Chapter and settlement of rents.— Sections 30, 31.) in such '[district] or part thereof, and the order prepare in the prescribed form and manner a settlement rent-roll in which the rents and rental values so estimated together with such other particulars as may be prescribed shall be specified. 30, 31 When an order has been made under section 29 directing a Revenue-officer to prepare a settlement rent-roll in respect of non-agricultural lands in any [district] or part thereof (b) where any of such non-agricultural lands are comprised in a tenancy which includes lands other than non-agricultural lands, the Revenue-officer shall— (i) divide the tenancy so as to constitute separate tenancies for the non-agricultural lands and the other lands; (ii) apportion the existing rent between the tenancies so constituted; and (iii) estimate fair and equitable rents for the non-agricultural lands in accordance with the provisions of this Act. 31. (1) When an order has been made under section 29 for the preparation of settlement rent-roll, the Revenue-officer shall prepare such rent-roll in accordance with the provisions of this Chapter and shall cause a draft of it to be published in the prescribed manner and for the prescribed period and shall receive and consider any objections made in regard to any entry [herein or omission (herefrom during the period of publication and shall dispose of such objections according to such rules as the State Government may make. (2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a settlement rent-roll is submitted to the confirming authority under section 32 revise any entry [herein: Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter. See footnote 2 on page 140. ante. 2 These words within the square brackets were substituted for the words and figures

"N01wilhqanding anylhing comained in the Bengal Tenancy Atl. 188S. when an order" by s. 8(i), ibid. 'This word wilhin the sqmuc bmeke•s was substituted rot lthe wards "local area, cs•ate or tenure" by s. 8(ii). ibid. "Clouse (a) omilted by s.. 8(iii). ibid, 4See fool-note 5 on page 121. mtre. Procedure whet-c both non-agri- cultural and otiEr lands concmcö. Publication Df settlment rem-roll, hearing or objections and confir- malion, 142 revision or smtlenx•m reni- and confirma- Revenue authori(Y. The "'est Betlglal Non-Agricultural Tenancy Act* 1949. [West Ben. Act (Chapter and secrlejenr of renrs.— Sections 32-34,) 32. (1) When all objections have been dispascd of under section 31, (hc Revenue-officer shall submil Lhe settlement rent-roll to the prescribed Revenue aulhorily for confirmation will) a rull Statelment of the grounds for his proposals alid a summary of the objccclions (if any) which he has reccived. (2) Such authority may confirm the settlemenc rent-roll with or - withouL alnendment or may return il for revision: Provided lhat no entry shall be atnended or omission Nupplied unfil reasonable notice has been "i ven (o Che parties concerncd Io appear and be heard in the matter. (3) Aftcc confirmation by such omhorily Lhe Revenue-officer shall causc the date of confirmation to be published in lbe prescribed manner and lhereafter the setllemenL rent-roll shall be open 10 inspection at such place and limes as Inay be prescribed, 33. (1) Any person 'Who is aggrieved by any enlcy in or 01nission from a seulement rent-roll confirmed under section 32 may appeal 10 lbe prescribed Revenue authority and froin lhe decision or such aulhorily to (he Board of Revenue in lbe nmanner and within lhc period prescribed in (his behalf. (2) No Civil Coun shall annul or alter any decision of o Revencuc- officer, a Revenue outhori(Y or the Board of Revenue under scclion 30 section 3 [or scclion 32 or sub-section (1) ofthis scclion except as provided in scclion 34, 34* (1) Any person who is aggrieved by any cnlry in or omission from settlement rent-roll confirmed under section 32 may insiilulc a sui(in Lhe Civil Court which would have jurisdiction Io entertain a suit for due possession or the land to which lhc cnlry relals or in respecu of which Che ormission was made. (2) Such suit shall be instituted within six months from {he date of confirmalion of Lhe setllemenL renl-roll or from lhe date or the cerlificalc of final public;uion of the record-of-rights, whichever is later, or, if an appeal has been presented under section 33, within three months from the date of the disposal of such appeal. (3) Such suit may be instiluled on any ot- the following grounds ond on no other ground namely:— (a) (b) (c) (d) that (he land is not liable to lhc paymem or rent: that Lhc land although entered in lbe record-of-rights as being held renl-free i.s liable (0 the payment rent; that lhe relation of landlord and tenanL does not exisl; that in Lhe record-or-righls the land has been wrongly recorded as parl or parlicular estate or tenancy or wrongly Tlze West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] (Chapær and senlentenr of rents,— Sec,ious 35-38.) (e) lbac in lhc record-of-righls lhere has been any omission of an under-tenanL or such under-tenam has been wrongly recorded as holdiiY2 lhe land venL-l'ree; (D lhal in lhe record-of-cighLs the special conditions and incidents Df lhe tenancy have not been recorded or have been wrongly recorded', (g) lhal in lhe record-or-rights any right of way or oLher easement auached to lhc land has nol been recorded or has been wrongly recorded; (h) ihaL Lhe land has been wrongly recorded ia (he settlement renl-roll as non-agricultural land; and (i) Lhat lhere h;rc, been an omission to estimate fair and equitable rents in respeci or any land under (his Act. (4) When a Civil Court has passed final orders or a dcerce under this section il shall notify the sanme {0 the 35. A notification in lhe Official Gazeite of an order under section 27 or of an order under secLion 29 shali be conclusive evidencc that the order has been duly Inade

36. Subject to lhe provisions of section 34, all rents entered in a setllement rent-roll confirmed under scclion 32 or scaled under section 33 shall be deemed to have been correctly settled and Io bc fair and equitable renLs wilhin lhe meaning of lhis Act

37. The Revenue-officer may at any time correct any bonafide clerical m istake in or omission from lhe settlement rent-roll and shatt make such alterations in the same as may be neccssary give effect to any decision under sub-secLion (1) of section 33 or section 34

38. W here an order has been made under section 27 for the preperation of a record-of-rights in respect of all non-agricultural lands in any lldisurict] or pan lhercof of which a settlement of land revenue is nol being made or is not about to be made, lhc Revenue-officer shall, in the Of * * * * * have regard LO the provisions of (his Act as to lhe determinü(ion of a fair and equitable cent and to such rufes as may bc made in this behalf under this Act.This word wilhin the square brackets was substituted for lhe words "local u•ea. estake or tenure" by s, 9(a) or lhe West Bengal Non.AgTicu1lucal Tenancy (Amendmcn0 1974 Ben. Act of 1974). 'Tbc words. figures and leiter "under sections 105 and

40. When a rent is settled by a Revenue-officer under this * * * * Of Let an order under section 27
Chapter has been made, such rent shall take effect from such date as may be fixed by the
Revenue-officer. (1) When the rent of the non-agricultural land comprised in a tenancy is settled under
this Chapter, after an order under section 27 has been made, it shall not, except on the ground of
a landlord's improvement or of a subsequent alteration in the area of such land, be enhanced, in
the case where such land is held by a tenant or by an under-tenant having under section 22 the rights and
liabilities of a tenant for fifteen years, and in the case where such land is held by an under-tenant having
no such rights and liabilities, for five years; and no such rent shall be reduced within the period aforesaid
save on the ground of alteration in the area of the non-agricultural land comprised within the tenancy. (2)
The said periods of fifteen years and five years shall be counted from the date on which the rent so settled
takes effect under this Chapter. In this Chapter— (a) "Revenue-officer" includes any officer whom the
[State] Government may appoint to discharge all or any of the functions of a Revenue-officer under this
Chapter; (b) the term "settlement of land-revenue" includes a settlement of rent in an estate or tenure
which belongs to the State. The words, figures and letters "or" under Chapter X of the Bengal Tenancy Act,
[1885] were omitted in section 40 and in sub-section (1) of section 41, by ss. 10 and 11, respectively, of the
West Bengal Non-Agricultural Tenancy (Amendment) Act, 1974 (West Ben. Act VIII of 1974), see
foot-note 5 on page 121. Annexure, J, See footnote 1 on page 126, Annexure— The West Bengal Non-Agricultural
Tenancy Act, 1949. XX of 1949.] (Chapter Provisions as to rent of non-agricultural tenancies.—Sections
43-46.) CHAPTER General Provisions as to rent of non-agricultural tenancies. Payment of rent

13 / 22

Non-agricultural tenants shall be entitled to full discharge of account and with the receipt and statement of account and shall keep counter-parts. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter VII.—General Provisions as to rent of non-agricultural tenancies.—Sections 47, 48) (2) The landlord or such agent, as the case may be, shall prepare and retain a counterfoil of the receipt. (3) The receipt and counterfoil shall be in such form and shall specify such particulars as may be prescribed either generally or for any particular local area or class of cases. (4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, unless the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given. (5) Where a landlord admits all rent payable by a non-agricultural tenant to the end of the Bengali year has been paid, the non-agricultural tenant shall be entitled to receive free of charge within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, either from the landlord, or, where the agent of such landlord has been authorised in writing to issue and sign such receipts on behalf of such landlord, from such agent. (2) Where the landlord does not so admit, the non-agricultural tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account in such form and specifying such particulars as may be prescribed either generally or for any particular local area or class of cases. (3) The landlord or such agent, as the case may be, shall prepare and retain a copy of the statement containing similar particulars. 48. (1) If a landlord or his agent without reasonable cause refuses or neglects to deliver to a non-agricultural tenant a receipt in accordance with the provisions of section 46 for any rent paid by the non-agricultural tenant, such tenant may, within three months from the date of payment, institute a suit to recover from such landlord or agent, as the case may be, such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit. (2) If a landlord or his agent without reasonable cause refuses or neglects to deliver to a non-agricultural tenant demanding the same either the receipt in full discharge or, if the non-agricultural tenant is not entitled to such a receipt, the statement of account for any year required by section 47, such tenant may, within the next ensuing Bengali year, institute a suit to recover from such landlord or agent, as the case may be, such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by such tenant to the landlord during the year for which the receipt or account should have been delivered. (3) If a landlord or his agent, without reasonable cause, fails to deliver to the non-agricultural tenant a receipt or statement or to prepare and retain a counterfoil or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector. (4) The Collector may hold a summary inquiry under sub-section (3), either on information received from a Revenue-officer within one year, or upon complaint or the petition aggrieved made within three months from the date of failure, or upon the report of a Civil Court. (5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the non-agricultural tenant on which the proceedings were instituted is false or vexatious, the Collector may, in his discretion, by his order or discharge, direct the non-agricultural tenant to pay to such landlord or agent such compensation, not exceeding fifty rupees, as the Collector thinks fit. (6) An appeal shall lie to the Commissioner (the Division) against any order of the Collector imposing a fine, under sub-section (3) or awarding compensation, under sub-section (5), and the order passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue, be final. (7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law for the time being in force for the recovery of a public demand. (8) For the purpose of an inquiry under this section the Collector shall have power to summon and enforce the attendance of witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908. (9) The existence of a dispute as to the rent or area of a tenancy on account of which rent is paid shall not be deemed to be a reasonable cause for refusing, neglecting or otherwise failing to deliver— (a) a receipt or any amount actually paid on account of rent, or (b) the statement or account required by section 47, and the refusal of the non-agricultural tenant to accept the receipt shall not be deemed to be a reasonable cause for failing to prepare and retain a counterfoil of such receipt as required by section 46. 49. (1) The Local Government shall cause to be prepared and kept

for sale. The landlords at all subdivisional Offices furnish of receipts with countersignatures and of statements of account suitable for use under sections 46 and 47. The Government may, by order in writing, direct the manner in which the receipts and accounts shall be prepared and the form of the receipts and accounts. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter VII.—General Provisions as to rent of non-agricultural tenancies—sections 50, 51.) (2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the [State] Government thinks fit

50. Where rent is due to the proprietor.—The receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorised in that behalf, shall be a sufficient discharge for the rent; and the non-agricultural tenant shall be liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person: Provided that nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee. Ben. Act VII of 1876, 51. (a) (b) (c) Deposit of rent. In any of the following cases, namely when a non-agricultural tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it; when a non-agricultural tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused of a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it; when the rent is payable to co-sharers jointly and the non-agricultural tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf; or when the non-agricultural tenant entertains a bona fide doubt as to who is entitled to receive the rent, the non-agricultural tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenancy an application in writing for permission to deposit in the Court a sum not less than the amount of the money then due. (2) The application shall (a) contain a statement of the grounds on which it is made; 'See 5 on page 121 and. The West Bengal Non-Agricultural Tenancy Act

1949. XX of 1949.] Act V of (Chapter VI.—General Provisions as to rent of non-agricultural tenancies.—Sections 52, 53.) (b) clause—(i) in the cases referred to in clauses (a) and (b) of sub-section (1) the name of the person to whose credit the deposit is to be entered, (ii) in the case referred to in clause (c) of that sub-section, the names of the co-sharers to whom the rent is due, or of so many of them as the non-agricultural tenant may be able to and (iii) in the case referred to in clause (d) of that sub-section, the name of the person to whom the rent was last paid and of the person or persons now claiming it; (c) be signed and verified in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI in Schedule I to the Code of Civil Procedure, 1908, by the non-agricultural tenant, or where he is not personally cognizant of the facts of the case by some person so cognizant; and (d) be accompanied* in the cases referred to in clauses (a) and (b) of sub-section (1) by the prescribed copy of transmission of the money deposited to the landlord and in the cases referred to in clauses (c) and (d) of that sub-section by a fee of the prescribed amount 52. (1) If it appears to the Court to which an application is made under section 51 that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court. (2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the non-agricultural tenant and deposited as aforesaid in the same manner and to the same extent as if that amount of rent had been received in the cases referred to in clauses (a) and (b) of sub-section (1) of section 51 by the person specified in the application as the person to whose credit the deposit was to be entered; in the case referred to in clause (c) of that sub-section, by the co-sharers to whom the rent is due; and in the case referred to in clause (d) of that sub-section, by the person entitled to the rent

53. The Court receiving a deposit—(i) in the case referred to in clause (a) or in clause (b) of sub-section (1) of section 51 shall forthwith forward the same by postal money-order to the address of the landlord; and (ii) receipt granted by Court (or rent deposited to a valid acquittance. Proceeds or payment to the landlord of rent deposited. 150. The Court may, by order in writing, direct the manner in which the receipts and accounts shall be prepared and the form of the receipts and accounts. The West Bengal Non-Agricultural Tenancy Act, 1949, [West Ben. Act (Chapter Provisions as to rent of non-agricultural tenancies.—Sections 54, 55.) (ii) in the case referred to in clause (c) or in clause (d) of that sub-section shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification or [the receipt] thereof containing a statement of the particulars, and, if the amount of the deposit is not paid away under section 54 within the period of

fifteen days next following the date on which the notification is so affixed. the Court shall forthwith in the case referred to in clause (e) of that sub-section cause a receipt of the deposit to be posted free of charge at the landlord's local office, if any, and in some conspicuous place in the village or town in which the non-agricultural land comprised within the tenancy or any portion thereof is situated, and in the case referred to in clause (d) of that sub-section cause like notice to be served free of charge on every person who it has reason to believe claims, or is entitled to, the deposit. 54. (1) The Court may pay the amount of the deposit notified under section 53 to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled. (2) If no payment is made under clause (i) of section 53 or under sub-section (1) before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited. (3) No suit or other proceeding shall be instituted against the Government or against any officer or the Government, in respect of anything done by a Court receiving a deposit under section 52 but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section. Penalty for refusing to receive rent. 55. If a landlord or his agent refuses without reasonable cause to receive payment or rent remitted by postal money-order or deposited in Court, the landlord shall be precluded from recovering, by suit, interest, costs or damages in respect of the same, and the Court may in addition award to the non-agricultural tenant damages not exceeding one and a half per centum on the whole amount claimed by the plaintiff. See footnote 1 page 126. ante. The West Bengal Non-Agricultural Tenancy Act

1949. XX of 1949.] (Chapter VII.—General Provisions as to rent of non-agricultural tenancies.—Sections 56-58.) The plea of the existence of any dispute as to the amount or rent due for the area of the land comprised in the tenancy shall not be deemed to be a reasonable cause under this section: Provided that, when a landlord accepts rent, which has been deposited, or remitted by postal money-order, the fact or his acceptance shall not be used in any way as evidence that he has admitted as correct any or the particulars set forth in the application for permission to deposit or in the postal money-order form. Arrears of rent

56. A non-agricultural tenant shall not be liable to execution for arrears of but his tenancy shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon. 57. (1) An arrear of rent shall bear simple interest at the rate of six and a quarter per centum per annum from the expiration of the calendar year in which the rent falls due (to the date of payment or of the institution of the suit, whichever date is earlier). (2) Nothing in any contract between a landlord and a non-agricultural tenant made before or after the commencement of this Act shall affect the provisions of sub-section (1) relating to interest payable on arrears. 58. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed (or rent and costs, such damages, not exceeding twelve and a half per centum on the amount of rent decreed, as it thinks fit: Provided that the Court shall not be debarred when damages are awarded under this section: Provided also that where damages are awarded— (i) the amount of such damages shall not be less than the interest accruing up to the date of the institution of the suit, and (ii) interest on the arrear may be awarded from the date of the institution of the suit up to the date of payment at such rate as the Court directs. (2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twelve and a half per centum on the whole amount claimed by the plaintiff as it thinks fit. 151 Liability to sale for increase on arrears. Power to award damages on rent withheld without cause, or if defendant sued for arrears. 152 Agricultural tenant not liable to landlord's interest for rent paid to another landlord without notice of the transfer. 153. Abuse, etc., illegal. Fine for offence of 'bunt'. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter VII.—General Provisions as to rent of non-agricultural tenancies.—Sections 59-62.) Liability for rent on change of landlord or after transfer of tenancy. 59. (1) A non-agricultural tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the non-agricultural tenant. (2) Where there is more than one

non-agricultural tenant paying rent to the landlord whose interest is transferred, a general notice from the transferor to the non-agricultural tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section

60. When a non-agricultural tenant transfers his tenancy in whole or in part, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent due before the transfer: Provided that the transferor shall not be liable to the landlord for such arrears of rent if the transferee has agreed to pay such arrears to the landlord and the fact has been mentioned in the instrument of transfer.

61. All impositions upon non-agricultural tenants under the denomination of abwab, 'nalhar or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void. 62. (1) If a landlord or his agent realises from a non-agricultural tenant any imposition declared under section 61 to be illegal, such landlord or agent, as the case may be, shall be liable to the same fine, to be imposed in the same manner in sub-section (3) of section 481 and the provisions of sub-sections (4), (7) and (8) of the said section relating to inquiry, fine and procedure shall, mutatis mutandis and so far as may be, apply to proceedings under this section. (2) An appeal shall lie to the District Judge against an order imposing a fine under this section, and the order passed by the District Judge on such appeal shall be final. (3) The imposition of a fine on a landlord or landlord's agent under this section shall not operate as a bar to the institution of a suit under section 63. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] (Chapter VII.—General Provisions as to rent of non-agricultural tenancies.—Section 63.—Chapter VIII.—Improvements.—Sections 64-66.) 63. Every non-agricultural tenant from whom, except under any special enactment for the time being in force, any sum of money is exacted by his landlord in excess of the rent or interest lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount so exacted exceeds two hundred rupees, not exceeding double that amount

CHAPTER VIII. Improvements

64. For the purposes of this Act the term "improvement" used with reference to a tenancy shall mean any work, which adds to the value of the non-agricultural land comprised in the tenancy, which is suitable to such land and consistent with any of the purposes specified in section 4 for which it is being used and which, if not executed on such land, is either executed directly for its benefit, or is, after execution, made directly beneficial to and subject to the foregoing provisions, shall include the following, namely—(i) laying out of passages or roads; (b) providing open spaces for ventilation, (c) providing facilities for taking water, (d) laying out drainage connection* but shall not include any work executed by a non-agricultural tenant if it substantially diminishes the value of his landlord's property. 65. (1) Subject to the provisions of sub-section (2), neither the non-agricultural tenant nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the tenancy (2) If both the non-agricultural tenant and his landlord wish to make the same improvement the non-agricultural tenant shall have the prior right to make it, unless it affects another tenancy or other tenancies under the same landlord. (3) Any fee realised from a non-agricultural tenant for permission to make any improvement in respect of his tenancy shall be deemed to be an abwab and the provisions of section 61 shall apply thereto. 66. (1) If a question arises between the non-agricultural tenant and his landlord— (a) as to the right to make an improvement, or (b) as to whether a particular work is an improvement, the Collector may, on the application of either party, decide the question. 153 Penally for exaction by landlord from non-agricultural tenant sum in excess of the payable. Definition of "improvement", Rights to make improvements, Collector to question as to right to make improvements etc. 154 Regulation of landlord's improvements. Application to record evidence improvements. The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter 67, 68.) (2) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the District Judge from every order passed by the Collector under sub-section (1) and the order passed by the District Judge on such appeal shall be final. 67. (1) A landlord may, by application to such Revenue-officer as the Local Government may appoint in his behalf, register any improvement which he has lawfully made or which has been lawfully made wholly or partly at

his expense or which he has assisted a non-agricultural tenant in making. (2) Every such application shall be in the prescribed form and shall contain such particulars and shall be verified in such manner, by local inquiry or otherwise, as may be prescribed. (3) The Revenue-officer receiving the application may reject it if it has not been made within twelve months,— (a) in the case of improvements made before the commencement of this Act, from the commencement of this Act; and (b) in the case of improvements made after the commencement of this Act, from the date of the completion of the work. 68. (1) If any non-agricultural tenant holding any non-agricultural land or his landlord desires that evidence relating to any improvement made in respect [hereof be recorded, he may apply to the Revenue-officer to whom an application for the registration of such improvement may be made under sub-section (1) of section 67 and such Revenue-officer shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence; Provided that such Revenue-officer shall not so record the evidence if he considers that there were no reasonable grounds for the making of the application, or if it appears to him that the subject-matter thereof is under inquiry in a Civil Court. (2) Whenever any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and the non-agricultural tenant or any persons claiming under them. See footnote 5 on page 121. am. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] IV of 1882. (Chapter IX.— Other incidents of non-agricultural tenancies.— Sections 69-71.—Chapter X.—Conversion of agricultural lands into non-agricultural tenancies.—Section 72.) CHAPTER DC. Other incidents of non-agricultural tenancies

69. Where a tenancy is held by a non-agricultural tenant subject to the condition of employment in any industrial concern, such tenant shall, notwithstanding anything elsewhere contained in this Act, be liable to be ejected from the land comprised in such tenancy on the termination of such employment

70. No non-agricultural tenant shall be ejected from the tenancy or from any non-agricultural land which he holds except in execution of a decree of a competent Civil Court. 71. The provisions of the Transfer of Property Act, 1882, and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to all tenancies to which the provisions of this Act apply. CHAPTER X. Conversion of agricultural lands into non-agricultural tenancies. 72. (1) A tenant holding any land not being non-agricultural land which is situated within any area to which this Act extends or his landlord, may apply to the Collector for the conversion of such land into a tenancy to which the provisions of this Act apply and, on receipt of such application, the Collector shall, by order in writing, direct such conversion subject to payment of such rent not exceeding twice the rent for the time being payable for such land, as the Collector may fix: Provided that no landlord shall be entitled to apply under this sub-section for such conversion of any land except in the case where such land is being used by the tenant by whom it is held for any purpose not connected with agriculture or horticulture without the express or implied consent of the landlord; Provided further that no order under this sub-section shall be passed without notice, the prescribed process fee for which shall accompany the application,— (i) in the case where such application is made by a tenant, to the landlord or the entire body of landlords and to the co-share tenants, if any. and 155 Eviction of non-agricultural tenants holding tenancies conditional upon employment in industrial concerns. No ejectment except in execution of decree. Application Transfer or Property Act. law. Conversion of agricultural lands into non-agricultural tenancies in certain 156 Regard to be had by Civil Courts to tenants in record-of-rights. Execution or decrees for arrears or rent by assignees or such decree.— The West Bengal Non-Agricultural Tenancy Act, 1949. [West Ben. Act (Chapter XI.—Judicial Procedure.—Sections 73, 74.) (ii) in the case where such application is made by a landlord, to the co-sharer landlords, if any. and to the tenant or if there be more than one tenant to all such tenants. (2) Every order passed under sub-section (1) directing the conversion of any land which is not non-agricultural land into a tenancy to which the provisions of this Act apply shall state the date from which such conversion shall have effect and shall specify the rent which shall be payable in respect of the tenancy into which such land is converted and the rent so specified shall not be enhanced during a period of not less than fifteen years from the date of such order. (3) An appeal shall lie to the Commissioner of the Division from any order of the Collector under this section if it is presented within thirty days from the date of such order and is accompanied by the prescribed fee and the decision of the Commissioner on such appeal shall be final. (4) Notwithstanding anything contained in any other law

for the time being in force or in any contract, where any land which is riot non- agricultural land is converted into a tenancy to which the provisions of this Act apply by an order under this section such land shall with effect from the date on which such conversion takes effect become non- agricultural land and the non-agricultural tenant of such land shall for the purposes of this Act be deemed to have held it as such a tenancy with effect from the date on which such tenant or his predecessor in interest was first inducted into the land

CHAPTER XI. Judicial Procedure

73. In all areas for which a record-of-rights' has been prepared in pursuance of an order made under section 27 and finally published, a Civil Court shall, in all suits between landlord and non-agricultural tenant such as have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it, unless such entries have been proved by evidence to be incorrect; and, when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing

74. Notwithstanding anything contained in rule 16 of Order XXI in Schedule I to the Code of Civil Procedure, 1908, an application for the execution or a decree for arrears in respect of any non-agricultural land obtained by a landlord shall not be made by an order of the decree unless the landlord's interest in the non-agricultural land has become and is vested in him. Act V of 1908. The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] Ben. Act 111 of 1913. (Chapter XI.—Judicial 75-77.)

75. A suit for the ejectment of a non-agricultural tenant, on the ground that he has used the non-agricultural land in a manner which renders it unfit for use for the purposes of the tenancy shall not be entertained unless the landlord has served in the prescribed manner, a notice in writing on the non-agricultural tenant— (i) specifying the particular misuse complained of; and (ii) if the misuse is capable of remedy, requiring the tenant to remedy the same, and unless the tenant has, where the misuse is capable of remedy, failed within a reasonable time from the date of the service of the notice to remedy the misuse

76. Where the interest of a non-agricultural tenant in any non- agricultural land is sold in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such the purchaser shall take free from all encumbrances which may have been created by such non-agricultural tenant or his predecessor in interest and is subsisting immediately before the purchase takes effect, but subject to (the interest of any under- tenant having under section 22 the rights and liabilities of a tenant

77. Where a non-agricultural tenant or his predecessor in interest has erected any structure on any non-agricultural land held by such tenant and such land is sold in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of such land, the purchaser shall be entitled to obtain delivery of possession of the land sold by the removal of such structure: Provided that the judgement-debtor shall be allowed reasonable time by the Court to remove such structure from the property sold before the possession of such property is delivered to the purchaser: Provided further that it shall be open to the purchaser to obtain possession of such land together with such structure on payment of such compensation for the value of such structure to the judgement-debtor as may be agreed upon between the purchaser and the judgement-debtor or, in the case where they do not agree, as may be determined by the Court on application by the purchaser, and, on payment of such compensation, the interest of the judgement-debtor in such structure shall vest absolutely in the purchaser. 157 Relief against forfeitures in certain Protection or the interest of an under- tenant having the rights and liabilities of a tenant in case of sale for arrears of rent. Delivery of possession of land sold for arrears of rent which has any structure erected on it by a non- agricultural tenant. 158 Purchase of non- agricultural tenancy in execution of a decree for arrears of rent of to take effect [from the date of confirmation or the sale, Rules for disposal of sale The West Bengal Non-Agricultural Tenancy Act* 1949. [West Ben. Act (Chapter XI.—Judicial Procedure.—Sections 78, 79.) 78. Notwithstanding anything contained in the Code of Civil Procedure, 1908, whenever the interest of any non-agricultural tenant in any non-agricultural land is sold in execution of a decree for arrears of rent, and (the sale is confirmed, the purchase shall take effect from (the date of confirmation of the sale. 79. 0) In disposing of (the proceeds of a sale of the interest of a non-agricultural tenant) (in any non-agricultural land in execution of decree for arrears of rent) the following rules instead

of those contained in section 73 of the Code of Civil Procedure, 1908, shall be observed. that is to say—

(a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenancy to sale;

(b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(c) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom the costs of the application made under this section and any rent which may have fallen due to him in respect of the tenancy between the institution of the suit and the date or the confirmation of the sale;

(d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application unless the Court, for reasons to be recorded in writing, otherwise directs.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c) of sub-section (1) the Court shall determine the dispute, and the determination shall have the force of a decree. Act V 1908, The West Bengal Non-Agricultural Tenancy Act, 1949. XX of 1949.] Act V of Ben. Act (Chapter Procedure.—Sections 80-82) 80. (L) The provisions of rules 58 to 63 (both inclusive) of Order XXI in Schedule I of the Code of Civil Procedure, 1908, shall not apply to the interest of any non-agricultural tenant in any non-agricultural land attached in execution of a decree for arrears due thereon. (2) When an order for the sale of the interest of any non-agricultural tenant in any non-agricultural land in execution of such a decree has been made, the interest or such non-agricultural tenant in such land shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree including the costs decreed together with the costs incurred in bringing such interest to sale is paid into Court or the decree-holder makes an application for the release of such interest from such attachment on the ground that the decree has been satisfied out of Court. (3) The judgment-debtor or any person whose interests are affected by the sale may pay money into Court under this section. 81. (1) When any person whose interests are affected by the sale of a tenancy of a non-agricultural tenant advertised for sale in execution of a decree for arrears of rent due in respect thereof or in execution of a certificate for arrears of rent due in respect thereof signed under the Bengal Public Demands Recovery Act, 1913, pays into the Court the amount requisite to prevent the sale— (a) the amount so paid by him shall be deemed to be a debt bearing interest at six and a quarter per centum per annum and secured by a mortgage of such tenancy to him; (b) his mortgage shall take priority over every other charge on such tenancy other than a charge for arrears of rent, and (c) he shall be entitled to possession of the tenancy as mortgagee of the non-agricultural tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged. (2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

82. When a tenancy to which the provisions of this Act apply is advertised for sale—(a) in execution of a decree for arrears of rent due in respect of such tenancy from a superior non-agricultural tenant defaulting, or release from attachment of non-agricultural tenancies on payment into Court of the amount of decree or on confession or admission of the decree-holder, Amount paid into Court to prevent sale to be a mortgage-debt due to the tenancy to certain cases. 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the decree-holder or any other person interested in the sale. by order set aside the sale, and the costs of the application and order and any deficiency of price which may happen on the resale, and all expenses attending it shall be paid by the judgment-debtor

84. For the purposes of this Chapter the terms "arrears" and "arrears or rent" shall be deemed to include interest decreed under section 57 or damages awarded in lieu of interest under sub-section (1) of section 58. Ben. Act of 19B. Act V of 1908. 85. CAAVTER Miscellaneous. Nothing in [his Act shall apply LO (a) (b) any land vested in, or in the possession of— (i) a port authority of a major port or (ii) a railway administration. or (iii) any local authority, or any lease in respect of any forest-rights or rights over fisheries or rights (0 minerals in any non-agricultural land, or XX of 1949.] 1 of 1894, XXXV Df 1939. xvnof west Ben. Act 11 of West Ben. West Ben. xxxor Ben. ACI V or Ben. Act IX of 1940. the West Bengal Non-Agricultural Tenancy Act, 1949. (Chapter 86-89.) any land acquired or deemed to have been acquired under the Land Acquisition Act. or the Defence of India Rules made under the Defence of India Act, 1939, or the Requisitioned Land (Continuance of Powers) Act, 1947, or the West Bengal Land (Requisition and Acquisition) Act, 1948, or the West Bengal Land Development and Planning Act, 1948. or (the West Bengal Requisitioned Land (Continuance of Powers) Act, 1951, or the Requisitioning and Acquisition of Immovable Property Act, 1952, or any other law for the time being in force providing for the compulsory acquisition of land, for Government, 'While such land remains the property of Government, or (d) any land which is required for carrying out any of the provisions of the Calcutta Improvement Act, 1911

86. Nothing in any contract between a landlord and a non-agricultural tenant made after the commencement of this Act shall away or limit the rights of such tenant as provided for by this Act, and any contract which is made in contravention of the provisions of this section or which is inconsistent '„vilhl or purports to alter (the effect of, any of the provisions of this Act, shall, to the extent of such contravention or inconsistency or to the extent it purports to alter such effect, be void and without effect. When under this Act a Court is authorised to make an order on the application of a landlord or a non-agricultural tenant, the application shall be made to the Civil Court which would have jurisdiction to entertain a suit for possession of the non-agricultural land comprised in the tenancy in connection with which the application is made

88. The provisions of this Act shall have effect in respect of all suits, appeals or proceedings including proceedings in execution for ejectment of a non-agricultural tenant which are pending at the date of commencement of this Act. In computing the period provided by any law for the time being in force for the execution of a decree for ejectment which was stayed under the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940, or for the institution of a suit for the ejectment of a non-agricultural tenant, the period during which the said Act continued in force shall be excluded. 'This clause (c) was substituted for the original clause (c) by s. 3 of the West Bengal Non-Agricultural Tenancy (Amendment) Act. 1953 (West Ben. Act XXIV of 1953). 161 Certain contracts not to annul the provisions of Jurisdiction in suits under this Act. Application, Saving of limitation, 162 Computation of the period for which non-agricultural land held in certain cases. RelR.al of Bengal Act XI of 1936 and Bengal Act E.X of The West Bengal Nonagricultural Tenancy ACT, 1949. [West Ben. Act (Chapter 90-92.) 90. If any non-agricultural land has been held by a tenant from before the commencement of the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940— (a) under a lease in writing and the time limited by such lease has expired either before such commencement or at any time during the period the said Act has been in force and the tenant has continued to hold such land during such period, or (b) under a lease in writing but no term is specified in such lease, or (c) without a lease in writing. then in calculating for the purposes of sections 7 and 9 the period for which such land has been held by such tenant. (i) in the case where the land has been held under a lease in writing and the time limited by such lease has expired at any time during the continuance in force of the said Act, the period for which such land has been held during such continuance and the expiration of the time limited by such lease, and (ii) in other cases, the period for which the said Act has been in force, shall be excluded. (1) The Bengal Non-Agricultural Lands Assessment Act. 1936.' 91. and the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act. 1940, are hereby repealed. (2) All rents settled record-of-rights or rent-rolls prepared. orders- or notifications issued, suits or other proceedings instituted and other things duly done under the Bengal Non-Agricultural Lands Assessment Act, 1936, shall, in so far as they are consistent with the

provisions of this Act, be deemed to have been respectively settled, prepared, issued, instituted or done hereunder. 92. (1) The [State] Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the manner in which the landlord or the tenant may apply to the Court under sub-section (2) of section 8; (b) the determination of a fair and equitable rent referred to in sub-section (3) of section 11; (c) the limit or enhancement of rent referred to in sub-section (t) of section 19 and the manner or determination of rent referred to in (2) of that section; (d) the forms of the notices and the amount of the process fees referred to in section 23; (e) the manner of making a survey and preparing a record-of-rights in pursuance of an order under section 27 and the procedure to be followed and the powers to be exercised by Revenue-officers when an order under the said section is made; (f) the form of a settlement rent-roll referred to in section 29, the manner of preparing the same and the particulars to be specified therein; (g) the division of a tenancy and the apportionment of the rent under clause (b) of section 30; (h) the manner and period of publication of a draft settlement rent-roll under sub-section (f) of section 31 and the disposal of objections under that sub-section; (i) the Revenue authority referred to in sub-section (1) of section 32; (j) the publication of the date of confirmation of a settlement rent-roll under sub-section (3) of section 32 and the place and times of inspection of such roll; (k) the Revenue authority referred to in sub-section (1) of section 33, the manner of presentation of appeals to such authority and the Board of Revenue and the periods within which such appeals shall be presented under the said sub-section; (l) the settlement of rents referred to in section 38; (m) the manner of payment or tender of rent by postal money-order under section 44; (n) the forms to be used generally or for any particular local area or class of cases for the receipt and counterfoil referred to in section 46 and for the statement of account referred to in sub-section (2) of section 47 and the particulars to be specified in such receipt, counterfoil and statement. 163 to 164 The West Bengal Non-Agricultural Tenancy Act, 1949. (West Ben. Act XX of 1949.) (Chapter 92) (o) the cost of transmission of the money deposited in the cases referred to in clauses (a) and (b) of sub-section (1) of section 51 and the amount of the fee referred to in clause (d) of sub-section (2) of that section; (p) the manner of publication of the general notice referred to in sub-section (2) of section 59; (q) the form of the particulars to be contained in, and the manner of verification of, applications referred to in sub-section (2) of section 67; (r) the amount of process fee referred to in the second proviso to sub-section (1) of section 72 and the amount of fee referred to in sub-section (3) of that section; (s) the manner of service of notice issued under this Act where the mode of such service is not provided in this Act.