
**REPORT OF THE SELECT COMMITTEE ON THE KERALA
LAND REFORMS BILL, 1963 AND THE BILL AS
REPORTED BY THE COMMITTEE**

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THE KERALA LAND REFORMS BILL, 1963

(Report of the Select Committee)

The Select Committee to which the Kerala Land Reforms Bill, 1963 was referred have considered the Bill and now submit this their report with the Bill as reported by the Select Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 15th September 1963.

3. The Bill was introduced in the Assembly on the 20th September 1963 and a motion for reference to a Select Committee was adopted on the 25th September 1963.

4. The Committee held ten sittings. The changes proposed by the Committee and the reasons therefor are set out in the following paragraphs.

5. *Clause 2.*

(a) *Sub-clause (8).* The Committee consider that a tenant in actual possession of land should be treated as a cultivating tenant notwithstanding the fact that the land has not actually been cultivated for a period. The sub-clause has accordingly been redrafted.

(b) *Sub-clause (9).* The Committee think that the definition should take in perquisites allowed to be taken by landlords under the custom prevailing in certain localities. The sub-clause has been suitably revised by the Committee.

(c) *Sub-clause (10).* The Committee consider that the term "double crop nilam" used in the Bill should be defined. Hence a definition on the lines of the definition in the Kerala Agrarian Relations Act has been incorporated in the Bill.

(d) *Sub-clause (16).* [*Original sub-clause (15)*]. The Committee feel that it should be made clear that in the case of double-crop nilams covered by tenant's expense, account shall be taken only of one crop and that where it is so covered at the landlord's expense, account may be taken of two crops. Accordingly a new proviso has been added to this sub-clause.

(e) *Sub-clause (22).* [*Original sub-clause (21)*]. The Committee think that the second proviso excluding certain

kanams in Malabar from the scope of the definition should be omitted, since it may not be proper to exclude any transaction having all the incidents specified in the definition from the scope of "kanam".

6. *Clause 3. sub-clause (1).* The Committee consider that Government need not take power to exempt any institution from the provisions of the Chapter.

The Committee also feel that the exemption provided in the case of leases granted by the Court of Wards should cease to apply unless the landlord in whose favour such lease was granted terminates the lease within a specified period after the release of the property from the superintendence of the Court of Wards.

The Committee also feel that by the exemption granted in respect of sites and premises of temples, etc., the existing rights of tenants in respect of their holdings should not be affected.

The sub-clause has been suitably modified for the above purposes.

Sub-clause (2). The Committee consider that the exemption which the Government may grant by notification should not apply to nilams. They also feel that such exemption should apply only in the case of lands situate in existing municipalities. The sub-clause has been modified accordingly.

7. *Clause 12.* The Committee feel that the right to prove the real nature of transactions may be available in proceedings before the Land Tribunals also. The clause has been modified for this purpose.

8. *Clause 13.* The Committee feel that the benefit of the exemption conferred in the case of tenancies created by members of the Armed Forces or Seamen may be extended to their legal representatives also. Sub-clause (2) has been modified for this purpose.

9. *Clause 20. (Original clause 19).* The Committee feel that every tenant from whom land has been resumed should be paid a solatium equal to one year's rent, based on the value of improvements, if any, to which he is entitled. The clause has been modified accordingly.

10. *Clause 22. (Original clause 21).* The Committee feel that in allowing resumption the Land Tribunal shall have regard to the nature, fertility and other conditions of the portion of the land allowed to be resumed and the remaining portion. The clause has been redrafted suitably.

11. *Clause 26. (Original clause 25).* The Committee feel that before a Court passes a decree for eviction of a tenant for non-payment of rent, a preliminary decree should be passed determining the amount due and directing the tenant to deposit the amount. The final decree should be passed only if the tenant fails to make the deposit as directed. Sub-clause (2) has been redrafted for this purpose.

12. *Clause 27. (Original clause 26).* The Committee are of the view that the option given to small-holders in cases where the cultivating tenants are entitled to fixity of tenure to claim seventy-five per cent of the contract rent or the fair rent should be available to all small-holders. The clause has been modified for this purpose.

13. *New Clause.* The Committee think that no fair rent shall be payable in respect of lands set apart for communal purposes. New clause 28 is intended for this purpose.

14. *Clause 36. (Original clause 34).* The Committee feel that if any proceeding on an application for remission of rent, a question arises as to whether a person is or is not a tenant, the officer competent to grant the remission may decide the question subject to orders of a competent civil Court. Sub-clause (3) has been added by the Committee for this purpose.

15. *Clause 41. (Original clause 39).* The Committee feel that the prices of commodities may be caused to be published by the District Collector, but before such publication, the public should have an opportunity to prefer objections to the prices proposed to be published. The clause has been suitably modified for the above purposes.

16. *Clause 46. (Original clause 44).* The Committee feel that the power to apportion the rent and the security for rent, if any, on severance of the interest of the landlord or of the tenant may be conferred on the Land Tribunal. The clause has been redrafted for this purpose.

17. *Clause 47. (Original clause 45).* The Committee think that the determination of the rent payable by a person acquiring interest in a portion of holding may be made by

the Land Tribunal instead of the Court. It is also felt that the time of one month fixed for making application for the purpose may be increased to sixty days.

18. *Clause 56. (Original clause 54).* The Committee consider that the amount payable in an instalment of the purchase price should not be less than Rs. 10 and therefore provision may be made to reduce the number of instalments in cases where the purchase price is less than Rs. 160. The clause has been modified for this purpose.

19. *Clause 57 (Original clause 55).* The Committee feel that the purchase of the landlord's rights by a cultivating tenant should have effect from the date on which the tenant deposits the first instalment of the purchase price. The clause has been suitably modified for this purpose.

20. *Clause 60 (Original clause 58).* The Committee feel that where a tenant purchasing the landlord's rights fails to deposit the second or subsequent instalment, the Land Board may on application issue an order directing the payment of the amount and that such order may be made executable through the court. The clause has been modified accordingly.

21. *Clause 63 (Original clause 61).* The Committee are of the view that the annuity payable to a religious, charitable or educational institution of a public nature should be the annual rent to which it was entitled immediately before 21-1-1961 instead of the commencement of the Act. They also consider that the commutation rate for purposes of annuity should be the average rate prevailing for 6 years. Necessary changes for the above purposes have been made in the clause.

22. *Clause 72 (Original clause 70)* The Committee feel that a tenant should not be denied the benefit of the provision merely on the ground that he has failed to make the deposit required under the Kerala Tenants and Kudikidappukars Protection Act, 1963. They also feel that a tenant who has already paid the amount specified under the Kerala Agrarian Relations Act or the Kerala Ryotwari Tenants and Kudikidappukars Protection Act, 1962, for the discharge of the arrears for any specified period, should not be liable to pay anything more.

The clause has been suitably modified for the above purposes.

23. *Clause 74 (Original clause 72).* The Committee feel that the extent of the site for the new Kudikidappu to which a Kudikidappukaran may be required to shift should be of the same extent as the original Kudikidappu subject to a minimum of 3 cents and maximum of 10 cents. The clause has been modified for this purpose.

24. *Clause 78 (Original Clause 76).* The Committee think that a kudikidappukaran should have the right to re-construct the hut or homestead occupied by him with the same or different materials without increasing the plinth area. Where, however, a kudikidappukaran re-constructs a homestead or hut, he should not be entitled to any compensation on that account. The clause has been redrafted for this purpose.

25. *Clause 79 (original clause 77).* The Committee feel that the exemption in the case of cashew estates, pepper gardens and arecanut gardens should apply only to such estates and plantations existing at the commencement of the Act. The Committee feel that the limit in the extent of pure pepper and pure arecanut gardens may be reduced from 10 to 5 acres.

The Committee consider that there need be no exemption in the case of lands mortgaged to Government, Co-operative Societies, Financial Corporation, etc.

The Committee also consider that the period of exemption in favour of lands granted to defence personnel for gallantry should not be restricted to the period of their lifetime and that burial and burning grounds may also be exempted.

The necessary modifications for the above purposes have been made in the clause.

26. *Clause 82 (original clause 80).* The Committee feel that a transfer made in favour of a religious, charitable or educational institution of a public nature solely for the purpose of the institution may be included within the exempted class of transfers.

27. *Clause 83. (original clause 81).* The Committee feel that by the transfers made by a person having more than the ceiling area, a transferee should not be made liable to surrender the lands obtained by him under the transfer where he has only less than the ceiling area. The clause has been modified for this purpose.

28. *Clause 86 (Original Clause 84).* The Committee consider that the proposal to pay compensation at $8 \frac{1}{3}$ times the net income for excess lands surrendered may cause hardship in cases where there is no present income from the lands. The Committee think that the compensation may be fixed as 55 per cent of the market value of the land and improvements thereon.

The clause has been modified accordingly.

29. *Clause 90. (Original clause 88).* The bonds issued by the Government towards compensation for excess lands surrendered may be redeemable in sixteen years, instead of ten years, since the purchase price for such lands on assignment is payable in 16 instalments.

30. *Clause 97 (Original clause 95).* The Committee consider that the members of the Land Board where it consists of three members should be the Head of the Land Revenue Department, a District Judge and another official appointed by the Government. The clause has been modified for this purpose.

31. *New Clause.* The Committee consider that a new clause on the lines of section 78 of the Kerala Agrarian Relations Act regarding leases for commercial or industrial purposes should be incorporated in the Bill. New clause 103 is intended for this purpose.

32. *New Clause.* The Committee think that there should be a provision for the cognisance of offences under the Act. New clause 119 is intended for this purpose.

33. *Clause 125.* The Committee consider that besides rules, the notifications under sub-clauses (1) (a) and (3) should be placed before the Legislative Assembly and should be subject to modifications by the Legislative Assembly. This clause makes provision for this purpose.

34. *Schedule III.* The Committee consider that the rates of fair rent in respect of cocoanut and arecanut trees for which the landlord is liable to pay compensation on eviction may be reduced from $\frac{1}{8}$ th to $\frac{1}{10}$ th.

The Committee are of the view that in the case of dry land and palliyal land the rate of fair rent may be fixed as $\frac{1}{8}$ th of the gross produce or Rs. 4 per acre, whichever is higher.

They also consider that the rate of fair rent in the case of lands cultivated with sugarcane may be 1/4th of the gross sugarcane produce.

Necessary modifications for the above purposes have been incorporated in the Schedule.

35. *Schedule IV.* The Committee has revised this schedule after obtaining the details of the padasekharams in the Kuttanad area.

36. The other changes made by the Committee are either verbal or consequential.

P. T. CHACKO,
Chairman of the Select Committee.

THE KERALA LAND REFORMS BILL, 1963

Note of Dissent

1. Under clauses 5 and 6, certain mortgagees with possession of immovable property, situate in Cochin are deemed tenants. We cannot agree to this consideration being given to the mortgagees of Cochin alone. In Cochin, this piece of progressive legislation was proclaimed by the then Maharaja as early as 1111, and thereby the mortgagees got tenancy rights. This has to be recognised. But it should not be confined to Cochin alone. There like mortgagees of other areas Travancore and Malabar, shall also get the benefit of tenancy. In Malabar area, in order to defeat the purpose of Malabar Tenancy Act, many landlords, had succeeded in influencing their tenants, to convert the lease deeds into mortgage deeds. In other area properties are held under time old mortgage documents, and have effected valuable improvements. But these mortgagees in fact do not get the security for their improvements and long standing possession. Hence it is only justifiable to deem such mortgagees as tenants throughout the Kerala State.

2. Clause 24 provides for payments to the person, who resumed the lands, the amounts paid by him to the cultivating tenants at the time of resumption and the value of improvements made subsequently by him before restoration. The right of restoration to the cultivating tenants is given on the failure of the person who resumed the land from the tenant, to put to the definite purpose for which the property was resumed. In order to prevent such mala fide petitions for resumption, with the whole object of harassing tenants, no payment should be awarded to the person, who resumed the lands.

3. We cannot agree with the provision under clause 25. In view of clause 38, this clause seems to be unnecessary. Clause 38 states that arrears of rent and interest shall be a charge on the interest of the tenant in the property. It definitely provides for sufficient remedy in case of defaulter in the payment of rents. Hence we do not see any reason for this clause providing the right of eviction in addition.

4. The first proviso to clause 26 is highly unjustifiable. In a majority of cases the contract rent itself is very high.

The quantum of rent might be low in certain cases. This might be due to the reason, that the rent might have been fixed by the landlords for the lands before its conversion into paddy fields. In any case, allowing the landlords to claim fair rent at the rate of twice the contract rent, will adversely affect the tenants, especially tenants cultivating paddy alone.

While providing the mode of discharging the arrears of rent under clause 70, there is no mention to exclude interest from adding to the arrears.

5. We do not see any reason to exempt from the operation of ceiling provision as regards Kayal Padasekharams of Kuttanad Area as described in Schedule IV.

1. (Sd.) M. P. M. AHAMMED KURIKKAL, M. L. A.
 2. (Sd.) K. HASSAN GANI, M. L. A.
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DISSENTING MINUTE SUBMITTED

By

SHRI V. R. KRISHNA IYER

I am constrained to register my dislike of the broad picture of agrarian "reform" that emerges from the Bill as touched up by the Select Committee * * * * My effort to make the Bill deserve its name has been baulked. In this contest I must record my regret at the absence of the Principal Opposition Party (the Communist Party) in the Select Committee, not merely because I feel that a more concerted and multi-voiced endeavour to oppose the obnoxious clauses in the present Bill and to restore the progressive provisions of Act IV of 1961, in the Committee stage, might have helped to improve the measure, from a certain point of view, but also because a procedure of non-cooperation in a matter vital to the peasantry looks sterile to me. I owe it to the House to articulate my dissent and hence this brief minute. I hold the view, although it is irrelevant to mention it in this minute, that the Agrarian Relations Act of 1960 should not have been scuttled. Act IV of 1961 as amended by Act 14 of 1962 had received the green signal from the Planning Commission and the President (i. e., the Central Government). It had received considerable debating attention and amending care at the hands of all the parties in the State. A great number of tenants had gone to the tribunals and courts on the basis of that Act and spent large sums of money. It is impossible, in this background, to justify a legislative obliteration of that law. At any rate wherever there is a departure in the present Bill from the relative provisions of the earlier Statute, there must be strong reasons to warrant such a departure. I regret to state that I have not been able to find any such reason during the discussion at the Committee stage. On the other hand, some of the changes made by the Committee are more harmful than the original Bill.

The cardinal features of land reform, adapted to Kerala conditions, furnish the touchstone for testing the wholesomeness of the various provisions of the Land Reforms Bill as passed through the crucible of the Select committee. These features are: (1) Substantial reduction of

rent from their current levels "so as to facilitate more rapid improvement in the economic conditions of tenants". (2) Security of tenure for the tenants and severe restrictions of resumption of tenancies. (3) Conferment of right of ownership on tenants "putting an end to vestiges of the landlord-tenant relationship". (4) Enforcement of ceilings on agricultural holdings and the utilisation of surplus land for the purpose of resettling ejected tenants and landless labourers. The exemptions from ceilings have naturally to be kept to a few essential items, particularly in a landscarce state like Kerala. (5) Safeguarding devices to prevent large land holders' manoeuvres by way of transfer, incorporation and partition to defeat the land reform legislation. (6) The provision of homesteads for the landless labourers i. e., Kudikidappukars. * * * * *

Chapter III deals with "ceiling" and provides for assumption and distribution of surplus land. The changes made by the Select Committee together with the existing loop-holes in the Bill virtually defeat the purpose of Chapter III leaving little land by way of excess. The retention of the Chapter in its modified form is either an eye-wash or self-deception.

The exclusion of plantations, cashew estates of 10 acres and above, pepper and areca gardens of 5 acres and above, Kayal Padasekharams of Kuttanad area, Muslim Wakfs private or public, etc., covers a considerable slice of the cultivable area in the State. What with the new definition of small holders and standard acres it is easy to conclude that the ceilings chapter is unworkable. There was no justification for including areca, pepper and cashew estates of relatively small size in the exempted categories. Agricultural companies are unfettered by ceiling provisions in the new Bill. The view that companies cannot be brought into this chapter is not necessarily sound. The earlier Act takes in companies, although a scrutiny of its provisions was made by legal experts in the State and the Central Law Ministry. A general power, rather unguided, has been taken by Government to exempt any land "on account of any special use to which it may be put" or for converting it into plantation or for expansion of existing plantations. The ceiling area itself has received an extended meaning and families and individuals can keep unlimited extents

on the score of sub families or on account of lineal descendants. The giving up of the slab system of compensation is contrary to social justice. In view of the decision of the Government to move for inclusion of the new law in the 9th schedule there was no valid ground for not adopting the graded scale of compensation.

It is the accepted principle of land reform that there should be a reduction in the current levels of rent and never an increase. The argument * * * * * that justice must be shown to the *landlord also*, woefully misses the main object of land reform in a socialistic pattern of society. On this basis it must be viewed as unfortunate that the Select Committee has not been able to find its way to remove the existing provision in the Bill that the fair rent may go as far as *twice the contract rent*. Moreover, the *existing* benefits of fair rent fixation to the tenants of Malabar ought never to have been taken away; but the fact remains that the Committee has not chosen to reintroduce the present ameliorative clauses in the Malabar Tenancy Act to the effect that in computing fair rent the yield in the second crop of paddy lands should be estimated as half the first crop. The present provision is ruinous in that. This rent is the basis for the purchase price payable by the tenant. The Malabar Tenancy Act had provided that where better yields are realised on account of Governmental irrigation schemes the benefit must go wholly to the peasant and the fair rent should be fixed on the basis of a yield arrived at without reference to such irrigational facilities. Even this benefit has *now* been taken away. There is no doubt that it is unjust to have removed that other provision regarding rents contained in Act IV of 1961, viz., that where the contract fixes money value of the commodity payable as rent it is enough if the tenant pays the money value so stipulated. The argument for removing this clause is that the contract must have indicated, for registration purposes, the *then* price but *now* the landlords must also get the benefit of the increase in price of commodities. This is a fallacy and is a discrimination against paddy growing tenantry. For, in regard to garden lands rents fixed long ago are also in terms of money. There is a limitation in the existing provisions that the fair rent cannot be more than twice the contract rent. Thus, for garden lands the maximum payable would

be twice the money rent fixed under the original contract while for paddy lands the maximum could be even 10 or 20 times the money value mentioned in the original contract. The fact is that the prices of both paddy and of cocoanut have gone up several times. The rice growing tenant has to give the landlord the full value on the basis of the increase in the commodity prices while the other classes of tenants need not. In short, the Bill passed through the Select Committee, is solicitous of the landlord's interest and is sensitive to what is called justice to the landlord. This is land reform in reverse gear. Vis-a-vis Act IV of 61 there is an upward revision of the formula for fair rent in the present Bill. The earlier formula had received approval in high quarters and stands included in the Bill for amending the ninth schedule to the Constitution. In these circumstances, is it fair to alter that "fair rent" formula? The provision that where contract rent and fair rent differ the rent payable is "whichever is less", for reasons already indicated, has unhappily been deleted. Other minor details illustrating the same point need not be gone into in this general objection.

I beg to state that even the clauses for eviction contained in the present Bill have not been changed for the better from the tenant's point of view at the Committee stage. The small holder, under the present provisions, has become a swollen holder through the device of the standard acre. He is given the right to evict although under limited circumstances. At least he should not have been allowed to evict except where there was real *need* for him to maintain himself by cultivation. But the present provision almost amounts to his being able to evict if he but *desires* to cultivate. The word "require" used in this Bill has been construed in decisions of courts to mean "desire". Even the Malabar Tenancy Act insisted upon "primary need" of the landlord as a pre-condition for eviction. But a decade later, in the name of land reform we are going back. 2 years' arrears of rent is a ground for evicting a tenant *now*. Not so in Act IV of 1961. Not so even in the Malabar Tenancy Act of 1951 (where arrears, as a ground for eviction existed only in regard to verumpattomdars). The whole assumption of the Bill is betrayed in this clause i. e., the land belongs to the landlord, the tenant cultivates by *leave* of the owner so long as he is ready to "give unto Caesar what

is his". If, as is argued this provision, will not harm in practice, then why have it?

Kudikidappukarans i. e., the landless poor, should have immunity from eviction in a State like Kerala where land is scarce and tenements are difficult to get. It must be stated that the protection given to the Kudikidappukarans under Section 75, 76 and also 72 leaves much to be desired. The protected Ulkudidar of the Malabar Tenancy Act possessed better rights. The fact that a Kudikidappukaran has obtained another Kudikidappu puts him out of the ambit of the statutory protection although as his family grows he has naturally to acquire some other hut also. If a person *owns* (without possessing it) a small plot or hut in the occupation of another, he ceases to be a Kudikidappukaran even if he is living in a hovel of another! The real difficulties of Kudikidappukarans consist in the denial of liberal easement rights which are necessary for him to make a living by drying his fishing net, taking water from the nearby tank, etc. This difficulty remains unremedied in the present Bill.

The right of a tenant to purchase the landlord's rights is also not wholeheartedly given, if I may say so. For instance, a cultivating tenant who has half an acre in his possession and 15 acres of mere ownership where other tenants with fixity of tenure cultivate the right to purchase is denied. Likewise the cultivating tenant's right to purchase the landlord's right is restricted to that area which, together with the land owned (but not possessed) by him, will be equal to the ceiling area. Thus, many cultivating tenants will be denied the right to bloom into peasant proprietorship merely because they have some intermediary right in other lands which cannot be resumed by them. The emphasis ought to be on possession if the object is to eliminate landlordism and create peasant proprietorship.

I must make mention of the temptation for this legislation to bring in the *Gods* for driving out *men* doing cultivation. For instance, the provision which enables eviction of the lands "when the same is needed for the purposes of extending the *place* of public religious worship" is fraught with dangerous possibilities because some of the deities in Kerala during annual festival, have a very long itinerant course, punctuated by worship on route and if all these lands are amenable to eviction, the hardship would be *ungodly*;

There are many other important matters both in the definition clauses and in the transitory provisions calling for rectification. Illustratively, the definition of kanom may be studied. All the confusions in the application of the definition to actual cases, manifested through the various decisions of the High Courts, remain. The only sensible course would be to lay down certain tests which, if answered in the affirmative make the transaction a kanam. We should have deleted the expression "enjoyment" in Sec. 2 (21) as it has been the source of conflict of judicial opinion and vagueness in the tests. In the transitory provisions also, hardship can occur because of lack of provision. For instance, eviction might have taken place of a tenant, although under the present law the tenant might be entitled to protection. But the present Bill says relief will be given only if eviction has not taken place. Thus the landlord who was more astute gets a better deal. Restoration of each tenant ought to have been provided for.

In fairness to Act IV of 1961 * * * * there should have been a provision which accepted as final those cases where purchase had been already effected under the earlier law. Even this stand has not been accepted at the committee stage. The introduction of the concept of standard acre might look like bringing in a scientific approach but a cursory study of Schedule II shows a capricious preparation thereof. For one thing, every district is supposed to have cardomom, cinnamon and cocoa plantation. People would wonder whether this Bill deals with the Kerala State or some other. Suffice it to say that there is only one cinnamon plantation, which itself is dying out, in the whole of the Kerala State; and this shows that the entire structure of Schedule II is built on fancy and not on fact. A closer analysis of the extent prescribed indicates arbitrariness and I have no doubt that neither the landlord nor the tenant will be grateful to the framers of Schedule II. In comprehensive land legislation an amount of financial responsibility must be undertaken by the State Government and this was the basis of the previous statute. In the present Bill Government have undertaken no responsibilities and this makes the position of the poorer landlords who are to receive small amounts by way of compensation really pathetic. In a sense the present Bill, even from the point of view of the small

holder, is injurious, particularly in the matter of compensation.

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The lacunae in the Bill are many from a purely legal point of view. I have had no time to scan, reflect and remedy. Haste is writ large in the various clauses and I can only express my dissent on the above lines and leave the Bill as it is.

(Sd.) V. R. KRISHNA IYER.

***These star marks in the dissenting minutes indicate portions expunged under Rule 222 of the Rules of Procedure and Conduct of Business in the Assembly.

THE KERALA LAND REFORMS BILL, 1963
(As amended by the Select Committee)

A
BILL

to enact a comprehensive legislation relating to land reforms in the State of Kerala.

Preamble.—WHEREAS it is expedient to enact a comprehensive legislation relating to land reforms in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. *Short title, extent and commencement.*—
(1) This Act may be called the Kerala Land Reforms Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) The provisions of this Act, except this section which shall come into force at once, shall come into force on such date as the Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act, shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) “agricultural labourer” means a person whose principal means of livelihood is the income he gets as wages, in connection with the agricultural operations he performs;

(2) "agricultural year" means the year commencing with the 1st April in any year and ending with the 31st March of the year next succeeding, except in the case of kole nilams in which case it shall be the year commencing with the 15th June in any year and ending with the 14th June of the year next succeeding:

Provided that the District Collector may, with respect to any crop, area or category of land within his district, by notification in the Gazette, specify the year between such other dates as he may deem fit as an agricultural year;

(3) "ceiling area" means the extent of land specified in section 80 as the ceiling area;

(4) "Cochin" means the area comprising—

(i) the portion of the State of Kerala which before the first day of July 1949 formed the State of Cochin, excluding the enclaves absorbed in the Malabar district under the Provinces and States (Absorption of Enclaves) Order, 1950; and

(ii) the enclaves which formed part of the Malabar district absorbed in the State of Travancore-Cochin under the said Order;

(5) "commercial site" means any land (not being a kudiyiruppu or a kudikidappu) which is used principally for the purposes of any trade, commerce, industry, manufacture or business;

(6) "court" means, where a particular court is not specifically mentioned, the court having jurisdiction under the Code of Civil Procedure, 1908, to entertain a suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates;

(7) "cultivate" with its grammatical variations means cultivate either solely by one's own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers, or both, provided that such members or hired

labourers have not agreed to pay or to take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

Explanation.—For the purposes of this clause, “members of family” shall mean—

(i) in the case of lands held by a joint family, “members of such family; and

(ii) in any other case, wife or husband, as the case may be, and the lineal descendants;

(8) “cultivating tenant” means a tenant who is in actual possession of, and is entitled to cultivate, the land comprised in his holding;

(9) “customary dues” means anything, other than rent, michavaram or renewal fees,—

(i) payable in cash or in kind by a tenant to his landlord; or

(ii) allowed to be taken by the landlord from the holding,

periodically or on the happening of any event or on the occasion of any festival, and includes onakazhcha, utsavakoppu, perunnalkazhcha and aradiantharam;

(10) “double-crop nilam” means nilam on which more than one crop of paddy is ordinarily raised in an agricultural year;

(11) “dry land” means a land which is not a nilam, garden, Palliyal land or plantation;

(12) “eviction” means the recovery of possession of land from a tenant or the recovery of a kudikidappu from the occupation of the kudikidappukaran;

(13) “fair rent” means the rent determined under section 30 or section 31 as the fair rent in respect of a holding;

(14) “family” means husband, wife and their unmarried minor children or such of them as exist;

(15) “garden” means land used principally for growing cocoanut trees, arecanut trees or pepper vines, or any two or more of the same;

(16) "gross produce" in the case of a nilam, means the normal produce of that nilam less the cost of harvesting and in the case of a garden, or dry land means the normal produce of that garden or dry land:

Provided that in determining the gross produce in the case of any double-crop nilam, account shall be taken as though only a single paddy crop, which shall be the principal crop, has been raised on the land if it had been converted from single crop into double-crop nilam at the tenant's expense, and as though two paddy crops have been raised on the land, if it had been so converted at the landlord's expense.

Explanation.—For the purposes of this clause, "normal produce" in respect of any land means the produce which would be raised if the rainfall and the seasons were of a normal character;

(17) "holding" means a parcel or parcels of land held under a single transaction by a tenant from a landlord and shall include any portion of a holding as above defined which the landlord and the tenant have agreed, or are bound under section 46, to treat as a separate holding; * * *

(18) the term "improvement" shall have the meaning assigned to it under the Kerala Compensation for Tenants Improvements Act, 1958;

(19) "intermediary" means any person who, not being a landowner or mortgagee, has an interest in the land and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to any other person otherwise than by way of mortgage;

(20) "joint family" means a Hindu undivided family, a Marumakkathayam tarwad or tavazhi, an Aliasanthana kutumba or kavaru or a Nambudiri Illam;

(21) "kaipad system of cultivation" means the system of cultivation, by whatever name called, under which paddy is cultivated on saline land by raising small mounds of earth * * * and planting seedlings thereon;

(22) "kanam" means the transfer for consideration in money or in kind or in both, by a landlord of an interest in specific immovable property to another person for the latter's enjoyment, whether described in the document evidencing the transaction as kanam or kanapattam or by any other name, the incidents of which transfer include—

(a) a right in the transferee to hold the said property liable for the consideration paid by him or due to him;

(b) the liability of the transferor to pay to the transferee interest on such consideration unless otherwise agreed to by the parties; and

(c) payment of michavaram, or customary dues or renewal on the expiry of any specified period:

* * * * *

Provided that kanapattam or any other demise governed by the Travancore Jenmi and Kudiyan Act of 1071 or the Kanam Tenancy Act, 1955, shall not be deemed to be a kanam.

* * * * *

Explanation.—For the purposes of this clause, where there has been no stipulation in the document evidencing the transaction for renewal on the expiry of any specified period, but there has been a renewal or payment of renewal fees, it shall be deemed that there had been a provision for such renewal in the document;

(23) "kanam-kuzhikanam" means and includes a transfer by a landlord to another person of garden lands or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, the incidents of which transfer include—

(a) a right in the transferee to hold the said lands liable for the consideration paid by him or due to him which consideration is called 'kanartham'; and

(b) the liability of the transferor to pay to the transferee interest on the kanartham unless otherwise agreed to by the parties;

(24) "kole nilam" means land in the bed of any kayal, or lake, or any water-logged land in areas adjoining or lying within the vicinity of any kayal, lake or river, on which paddy is cultivated by raising bunds on one or more sides and draining the water away by mechanical or other means, and includes—

(i) Kole or punjakole nilam in the districts of Palghat and Trichur; and

(ii) water-logged land in the taluks of Hosdrug and Kasaragod commonly known as "Avi" land, on which paddy is cultivated by raising bunds on one or more sides and draining the water away by baling;

(25) "kudikidappukaran" means a person who has no homestead or land, either as owner or as tenant in possession, to erect a homestead, and—

(i) who has been permitted with or without an obligation to pay rent by a person in lawful possession of any land to have the use and occupation of a portion of such land for the purpose of erecting a homestead, or

(ii) who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land,

but otherwise has no interest in the land; and "kudikidappu" means the land and the homestead or hut so permitted to be erected or occupied together with the easements attached thereto:

Provided that a person shall not be deemed to be a kudikidappukaran if the aforesaid permission was granted after the 11th day of April, 1957, by a mortgagee in possession or by a tenant who was not entitled to fixity of tenure under any law then in force:

Provided further that a person shall not be deemed to be a kudikidappukaran if the aforesaid

permission was granted in respect of any hut not belonging to him and situate—

- (a) in a plantation; or
- (b) in any area of land which is appurtenant to a mill, factory or workshop,

and in connection with the employment of such person in the plantation, mill, factory or workshop, unless he was, immediately before the commencement of this Act, entitled to the rights of a kudikidappukaran or the holder of a protected ulkudi or kudikidappu under any law then in force.

Explanation I.—For the purposes of this clause, “hut” means any dwelling house which has a value not exceeding four hundred rupees or the monthly rent of which does not exceed four rupees.

Explanation II.—Any person who was in occupation of a kudikidappu on the 11th day of April, 1957, and who continued to be in such occupation at the commencement of this Act shall be deemed to be in occupation of such kudikidappu with permission as required under this clause.

Explanation III.—Where any kudikidappukaran secures any mortgage with possession over the land in which the kudikidappu is situate, his kudikidappu right shall revive on the redemption of the mortgage, provided that he has at the time of the redemption no homestead or land, either as owner or as tenant in possession, to erect a homestead;

(26) “kudiyiruppu” means a holding or part of a holding consisting of the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and easements attached thereto, but does not include a kudikidappu;

(27) “Kuttanad area” means the area covered by the villages specified in Schedule I;

(28) “kuzhikanam” means and includes a transfer by a landlord to another person of garden lands

or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer, for the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon;

(29) "landlord" means a person under whom a tenant holds and to whom he is liable to pay rent and includes a landowner;

(30) "landowner" means the owner of the land comprised in a holding and includes—

* * * * *

(i) a landholder holding Sree Pandaravaka lands on pattam, otti, janmam, kudijanmam, danam or any other tenure; and

(ii) a landholder holding Sreepadam lands on Sreepadam pattam or other favourable tenures;

* * * * *

(31) "Land Board" means the Land Board constituted under section 97;

(32) "Land Tribunal" means a Land Tribunal constituted under section 96;

(33) "licensee" means any person who is in occupation of any nilam belonging to another and who, under any local custom or usage or under an agreement, cultivates that nilam with paddy for a remuneration and with the risk of cultivation, but does not include a person who cultivates the nilam of another merely as an agent or servant;

(34) "Malabar" means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956;

(35) "member of Armed Forces" means a person in the service of the Air Force, Army or Navy of the Union of India;

(36) "michavaram" means whatever is agreed by a kanamdar to be paid periodically as residual rent, in money or in kind or in both to, or on behalf of, the landlord, but does not include customary dues;

(37) "net income" means income derived from any property after deducting therefrom the cultivation expenses or maintenance charges and taxes and cesses due to the Government or any local authority;

(38) "nilam" means land adapted for the cultivation of paddy;

(39) "odacharthu" means an agreement for cutting bamboos in Malabar;

(40) "owner" means a person entitled to the absolute proprietorship of land and includes—

(a) a trustee in respect thereof ;

(b) a kudiyan as defined in the Travancore Janmi and Kudiyan Act of 1071 and a kanam tenant as defined in the Kanam Tenancy Act, 1955, but does not include a janmi as defined in the said Acts ;

(c) a pattadar of ryotwari land;

(41) "palliyal land" means land which is used ordinarily for raising seedlings of paddy and includes land so used and known as pallimanayal, myal, potta, njal, njattadi or banabettu;

(42) "pay" with its grammatical variations includes deliver;

(43) "person" shall include a company, family, joint family, association or other body of individuals, whether incorporated or not, and any institution capable of holding property;

(44) "plantation" means any land used by a person principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamon (hereinafter in this clause referred to as 'plantation crops') and includes—

(a) land used by the said person for any purpose ancillary to the cultivation of plantation crops or for the preparation of the same for the market;

(b) land contiguous to, or in the vicinity of, or within the boundaries of, the area cultivated with plantation crops, not exceeding twenty per cent of the

area so cultivated and reserved by the said person and fit for the expansion of such cultivation;

(c) agricultural lands interspersed within the boundaries of the area cultivated by the said person with plantation crops, not exceeding such extent as may be determined by the Land Board as necessary for the protection and efficient management of such cultivation.

Explanation.—Lands used for the construction of office buildings, godowns, factories, quarters for workmen, hospitals, schools and play grounds shall be deemed to be lands used for the purposes of the sub clause (a);

* * * * *

(45) “possession” in relation to land includes occupation of land by a person deemed to be a tenant under section 4, section 5, section 6, section 7, section 8, section 9 or section 10;

(46) “prescribed” means prescribed by rules made under this Act;

(47) “private forests” means forests to which the Madras Preservation of Private Forests Act, 1949 (Act XVII of 1949), applies, excluding—

- (i) areas which are waste and are not enclaves within wooded areas;
- (ii) areas which are gardens or nilams;
- (iii) areas which are planted with tea, coffee, cocoa, rubber, cardamom or cinnamon; and
- (iv) other areas which are cultivated with pepper, arecanut, cocoanut, cashew or other fruit-bearing trees or are cultivated with any other agricultural crop;

(48) (i) “punam or kumri cultivation” means fugitive or intermittent cultivation of paddy on dry lands in Malabar;

(ii) “punam or kumri cultivator” means a person who has raised crops by punam or kumri cultivation in any year between 1953 and 1959 and, where there are successive cultivators in respect of the

same land, the cultivator who raised crops last by such cultivation during the said period;

(49) "rent" means whatever is lawfully payable in money or in kind or in both by a person permitted to have the use and occupation of any land to the person so permitting, and includes michavaram, but does not include customary dues;

(50) "resumption" means the recovery of possession of land from a tenant;

(51) "seaman" means every person (including a master, pilot or apprentice) employed or engaged as a member of the crew of a ship or a sailing vessel to which the Merchant Shipping Act, 1958 (Central Act 44 of 1958) applies;

(52) "small holder" means a landlord—

(i) who is not in possession of land exceeding five standard acres; and

(ii) who does not have interest as owner, person in possession or intermediary, or in two or more of the above capacities, in lands exceeding ten standard acres or thirty acres in extent, whichever is less.

Explanation.—For the purposes of this clause, a person who was in possession of, or had interest in, land exceeding the limits specified in this clause immediately before the 18th December, 1957, but such extent of land was reduced to the said limits or below by partition or transfer effected after the date mentioned above, shall not be deemed to be a small holder; nor shall such partition or transfer entitle the allottee or transferee to exercise the rights of a smallholder in respect of the land allotted or transferred to him;

(53) "Sreepadam lands" means the lands registered in the revenue records as "sreepadam vaka" and known as sreepadam lands but does not include sreepadam thanathu lands;

(54) "Sree Pandaravaka lands" means the lands owned by the Sree Padmanabhaswamy;

(55) "standard acre" means, in relation to any class of land specified in Schedule II situate in the District or taluk mentioned therein, the extent of land specified against it in that Schedule;

(56) "State" means the State of Kerala;

(57) "tenant" means any person who has paid or has agreed to pay rent or other consideration, for his being allowed by another, to possess and to enjoy the land of the latter, and includes:—

- (a) an intermediary,
- (b) a kanamdar,
- (c) a kanam-kuzhikanamdar,
- (d) a kuzhikanamdar,
- (e) a mulgenidar,
- (f) a verumpattamdar of any description (including a customary verumpattamdar),
- (g) the holder of a chalgeni lease,
- (h) the holder of a kudiyrrippu,
- (i) the holder of a vaidageni lease, and
- (j) a person who is deemed to be a tenant under section 4, section 5, section 6, section 7, section 8, section 9 or section 10,

but shall not include a usufructuary mortgagee as defined in the Transfer of Property Act, 1882 (Central Act 4 of 1882).

Explanation.—For the purposes of this clause,—

(i) "holder of a chalgeni lease" means a lessee or sub-lessee of specific immovable property situate in the taluk of Hosdrug or Kasaragod in the district of Cannanore, who has contracted either expressly or impliedly to hold the same under a lease, whether for a specified period or not;

(ii) "mulgeni" means a tenancy in perpetuity at a fixed invariable rent created in favour of a person called mulgenidar;

(iii) "vaidageni lease" means a lease for a term of years;

(58) "timber trees" means trees the yield or income from which has not to be taken into account for the determination of fair rent ;

(59) "to hold land" means to be in possession of land as owner or as tenant or partly as owner and partly as tenant;

(60) "varam" means an arrangement for the cultivation of nilam with paddy and sharing the produce, made between the owner or other person in lawful possession of the nilam and the person who undertakes cultivation under such arrangement, and includes the arrangement known as pathivaram, pankuvaram and pankupattam; and "varamdar" means the person who undertakes cultivation under a varam arrangement;

(61) "vechupakuthy" means a transaction whereunder a landowner permits another person * * * to be in joint possession with him of any land with the following stipulations:—

(i) the vechupakuthidar shall improve the land within a specified period ;

(ii) at the end of the period so specified—

(a) the land shall be partitioned between the landowner and the vechupakuthidar in a specified proportion;

(b) upon such partition, all the rights of either party over the portion of the land set apart for the other shall stand transferred to and vest in the other; and

(iii) during the period between the date of the transaction aforesaid and the partition of the land the vechupakuthidar shall pay to the landowner such rent as may be specified;

(62) (i) "verumpattamdar" means a lessee or sublessee of immovable property, whether called verumpattamdar, or venpattamdar, who has expressly or impliedly contracted to hold the same under a lease with or without security for rent and includes a tharikuthukaran in Palghat district but does not include a kanamdar, kanam-kuzhikanamdar, or kuzhikanamdar;

(ii) "customary verumpattamdar" means any verumpattamdar of immovable property situate in any area to which the Malabar Tenancy Act, 1929,

extended, who, before the commencement of the Malabar Tenancy (Amendment) Act, 1951, was entitled, by the custom of the locality in which the land was situated, to possession of the said land for a definite period of years, and for whose continuance thereon after the termination of that period, for a further period, a renewal fee had to be paid to the landlord as an incident of the tenure.

CHAPTER II

PROVISIONS REGARDING TENANCIES
EXEMPTIONS

3. *Exemptions.*—(1) Nothing in this Chapter shall apply to—

(i) leases of lands or of buildings or of both belonging to or vested in the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India.

* * * * *

Provided that in the case of kandukrishi lands sub-leased by a tenant holding such lands under the Government, the provisions of sections 13 to 26 shall, so long as the lease granted by the Government subsists, apply to the tenants holding under the sub-lease as they apply to tenants holding lands other than Government lands.

Explanation I.—“Lands belonging to or vested in the Government of Kerala” shall, for the purposes of this clause, have the same meaning as “Government land” under sub-section (1) of section 2 of the Kerala Government Land Assignment Act, 1960, but leases of lands escheated to the Government shall not be deemed to be leases of land belonging to or vested in the Government if such leases subsisted at the time of the escheat and continued to be in force at the commencement of this Act.

Explanation II.—For the purposes of this clause, “kandukrishi lands” means lands covered by the Kandukrishi Proclamation, 1124, and includes kandukrishi pattam and kandukrishi thanathu lands but shall not include lands assigned on registry under the Kandukrishi Land Assignment Rules, 1958; or

(ii) leases only of buildings including a house, shop or warehouse, and the site thereof, with the land, if any, appurtenant thereto.

Explanation.—Permission given to a kudikidapukaran to occupy a hut shall not be deemed to be a lease of building for the purposes of this clause; or

(iii) leases of land or of buildings or of both specifically granted for industrial or commercial purposes; or

(iv) tenancies of land or of buildings or of both granted by the Administrator-General or the Official Trustee or an Official Receiver or officer appointed by a court under the provisions of any law or by the court of wards, or by any person holding under or deriving title from any of the officers or court aforesaid:

Provided that the provisions of this clause shall cease to apply to any tenancy granted by the Court of Wards, where the landlord on whose behalf the tenancy was created does not terminate the tenancy by registered notice within a period of six months from the date on which the property was released from the superintendence of the Court of Wards or six months from the commencement of this Act, whichever period expires later; or

(v) tenancies in respect of land or of buildings or of both created by mortgagees in possession or by persons deriving title from such mortgagees:

Provided that nothing in this clause shall apply to a cultivating tenant holding land in the taluk of Hosdrug or Kasaragod in the district of Cannanore, to which the Malabar Tenancy Act, 1929, did not extend under a lease granted before the 15th day of February, 1961, by a usufructuary mortgagee as defined in the Transfer of Property Act, 1882 (Central Act 4 of 1882); or

(vi) tenancies in respect of land or of buildings or of both created by persons having only life interest or other limited interest in the land or in the buildings or in both:

Provided that the provisions of section 13 to 26 relating to fixity of tenure shall apply to tenancies falling under clauses (v) and (vi) so long as the

mortgage, or, as the case may be, the life interest or other limited interest subsists:

Provided further that tenancies created by a nissanthathi kavaru, as defined in the Madras Aliyasantana Act, 1949, in respect of lands or of buildings or of both belonging to such kavaru shall not, notwithstanding anything contained in that Act, be deemed to be a tenancy created by a person having only life interest or other limited interest.

Explanation.—For the purposes of clause (vi), a Sthani or trustee or owner of any temple, mosque, church or other place of public religious worship or of any other public religious or charitable institution or endowment shall not be deemed to be a person having only life interest or other limited interest in ownership;

(vii) leases of private forests:

Provided that nothing in clauses (i) to (vii) shall affect the rights of persons who were entitled to fixity of tenure immediately before the 21st January 1961 under any law then in force; or

(viii) tenancies in respect of plantations exceeding thirty acres in extent:

Provided that the provisions of this Chapter, other than sections 51 to 71, shall apply to tenancies in respect of agricultural lands which are treated as plantations under sub-clause (c) of clause (44) of section 2; or

(ix) tenancies in respect of sites, tanks and premises of any temple, mosque or church (including sites on which religious ceremonies are conducted) and sites of office buildings and other buildings attached to such temple, mosque or church, created by the owner, trustee or manager of such temple, mosque or church:

Provided that nothing in this clause shall affect the rights to which a tenant was entitled immediately before the commencement of this Act under the contract of tenancy or under any law then in force; or

(x) lands transferred for felling trees; or

(xi) any transaction relating only to the usufruct of trees or to the tapping of cocoanut or other palm trees or to the tapping of rubber trees.

(2) The Government may, if they are satisfied that it is necessary so to do in public interest, by notification in the Gazette, exempt any lease or leases of lands other than nilams, or of such lands and buildings situate within the limits of a municipal corporation or municipality, which was in existence at the commencement of this Act and belonging to, or vested in, the Travancore Devaswom Board or the Cochin Devaswom Board, from the operation of all or any of the provisions of this Chapter.

DEEMED TENANTS

4. *Certain odacharthudars and persons claiming under them to be deemed tenants.*—Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage or in any judgment, decree or order of court,—

(i) an odacharthudar; or

(ii) a person claiming under an odacharthudar,

who was actually cultivating on the 11th day of April, 1957 and was continuing to cultivate at the commencement of this Act, the land or any portion of the land to which the odacharthu relates, shall be deemed to be a tenant in respect of the land or the portion of the land so cultivated.

5. *Certain mortgagees with possession to be deemed tenants.*—(1) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgment, decree or order of court, a mortgagee with possession of immovable property situate in Cochin shall be deemed to be a tenant, * * * if—

(a) the property comprised in the mortgage consists of agricultural land other than land planted with rubber, coffee, tea or cashew, and

- (b) the interest on the mortgage amount is less than forty per cent of the total rent fixed in the mortgage document.

(2) The mortgage money or any portion thereof may, at the option of the mortgagor, be treated as security for rent. The mortgagor shall return the mortgage money or the portion thereof which he does not elect to treat as security for rent to the tenant within six months from the commencement of this Act.

6. *Certain mortgagees who were holding land on verumpattam on or after 1st Chingam, 1111, to be deemed tenants:—*(1) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage or in any judgment, decree or order of court, a mortgagee with possession of immovable property situate in Cochin shall be deemed to be a tenant, if—

- (a) the property comprised in the mortgage consists of agricultural land;
- (b) he was by himself or through any member of his family or tarwad holding the property comprised in the mortgage as a verumpattamdar on or after the first day of Chingam, 1111; and
- (c) the verumpattam was terminated after the first day of Chingam, 1111 and before the commencement of this Act, but he continued in possession of the property, without interruption, by himself or through any member of his family or tarwad, as a mortgagee with possession from the date of such termination till the commencement of this Act.

(2) The mortgage money or any portion thereof may, at the option of the mortgagor, be treated as security for rent. The mortgagor shall return the mortgage money or the portion thereof which he does not elect to treat as security for rent to the

tenant within six months from the commencement of this Act.

7. *Certain persons occupying land honestly believing to be tenants, to be deemed tenants.*—Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of court, any person who, on the 11th day of April, 1957, was continuously in occupation of the land of another situate in Malabar, for not less than two years, honestly believing himself to be a tenant and continued to be in occupation of such land at the commencement of this Act, shall be deemed to be a tenant. * * *

8. *Certain persons who were cultivating land on varam arrangement to be deemed tenants.*—Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of court, any person who, by virtue of the provisions of section 6 of the Kerala Stay of Eviction Proceedings Act, 1957, was entitled to cultivate any nilam after the 11th day of April, 1957, and was cultivating the nilam at the commencement of this Act shall be deemed to be a tenant, * * * notwithstanding the expiry of the term fixed under the varam arrangement.

9. *Certain persons who surrendered leasehold rights but continued in possession, to be deemed tenants.*—Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of court, where, on or after the 11th day of April, 1957, a tenant holding land less in extent than the ceiling area, had executed a deed surrendering his leasehold right to the landlord, but had not actually transferred possession of the land to the landlord before the commencement of this Act, such deed shall be deemed to be invalid and such person shall be deemed to be a tenant. * * *

10. *Certain other persons to be deemed tenants.*—Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in

any judgment, decree or order of court, the following classes of persons shall be deemed to be tenants:—

- * * * *
- (i) a punam or kumri cultivator;
 - (ii) a licensee in Kuttanad area;
 - (iii) a varamdar;
 - (iv) a vechupakuthidar; and
 - (v) a person holding land situate in any part of the taluk of Hosdrug or Kasaragod to which the Malabar Tenancy Act, 1929, did not extend, under a transaction described in the document evidencing it as bhogya, otti, nattotti, arwar, illidarwar or kritha-sartha illidarwar, but not being a usufructuary mortgage as defined in the Transfer of Property Act, 1882 (Central Act 4 of 1882).

11. *Sambalapattamdar, Sambalachittudar, etc., in Palghat District to be presumed tenants.*—Where in a document, a person is described as a sambalapattamdar, sambalachittudar or coolipattamdar in respect of any nilam situate in the Palghat District, he shall be presumed to be a tenant for all purposes of this Act:

Provided that such presumption shall stand rebutted if it is proved that the sambalapattamdar, sambalachittudar or coolipattamdar has not undertaken any risk of cultivation.

12. *Right to prove real nature of transaction.*—(1) Notwithstanding anything in the Indian Evidence Act, 1872 (Central Act 1 of 1872), or in any other law for the time being in force, any person interested in any land may * * * * * prove that a transaction purporting to be a mortgage, otti, karipanayam, panayam or nerpanayam of that land is not in fact such a transaction but a transaction by way of kanam, kanamkuzhikanam, kuzhikanam, verumpattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 13 and to the other rights of a tenant under this Act.

(2) Where under ** * sub-section (1) the court or the Land Tribunal holds that the transferee is entitled to fixity of tenure in accordance with the provisions of section 12, it shall be lawful for the court or the Land Tribunal to pass a decree or order containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instrument executed by the parties.

(3) Notwithstanding anything in the Indian Evidence Act, 1872, or in any other law for the time being in force, a person described as an agent or servant in a document evidencing the contract for the cultivation of any nilam, may * * * prove that he is a licensee.

FIXITY OF TENURE

13. *Right of tenants to fixity of tenure.*—(1) Notwithstanding anything to the contrary contained in any law, custom, usage or contract, or in any decree or order of court, every tenant shall have fixity of tenure in respect of his holding and no land from the holding shall be resumed except as provided in sections 14 to 22.

(2) Nothing in sub-section (1) shall confer fixity of tenure on a tenant holding under a landlord—

(i) who is a member of the Armed Forces or is a seaman if the tenancy was created by such landlord within a period of three months before he became a member of the Armed Forces or a seaman, or while he was serving as such member or seaman; or

(ii) who is the legal representative of the landlord referred to in clause (i):

Provided that no such landlord shall resume any land from his tenant, if he is already in possession of an extent of land not less than the ceiling area; and where he is in possession of an extent of land less than the ceiling area, the extent of land

that may be resumed shall not, together with the land in his possession, exceed the ceiling area:

Provided further that such tenant shall be deemed to have fixity of tenure in respect of his holding if—

(i) the landlord referred to in clause (i) has not claimed resumption of the land comprised in the holding within one year from the date on which he ceased to be a member of the Armed Forces or a seaman, or within one year from the commencement of this Act, or within one year from the expiry of the period of tenancy, whichever period expires last;

(ii) the landlord referred to in clause (ii) has not claimed resumption of the land comprised in the holding within one year from the date on which he received intimation of the death of the member of the Armed Forces or seaman, or within one year from the commencement of this Act, or within one year from the expiry of the period of tenancy, whichever period expires last:

Provided also that the provisions of this subsection shall not apply to tenants who were entitled to fixity of tenure immediately before the 21st January, 1961, under any law then in force.

14. *Resumption for extension of places of public religious worship.*—A trustee or owner of a place of public religious worship may resume from a tenant the whole or any portion of his holding when the same is needed for the purpose of extending the place of public religious worship and the Collector of the district certifies that the same is so needed.

15. *Resumption for construction of residential buildings.*—A landlord (other than a sthani or the trustee or owner of a place of public religious worship) who is not in possession of any land or is in possession of land less than five standard acres and who needs the holding for the purpose of constructing a building *bona fide* for his own residence or for that of any member of his family may resume from his tenant—

(i) an extent of land not exceeding 20 cents, where resumption is sought on behalf of one person; and

(ii) an extent of land not exceeding 50 cents, where resumption is sought on behalf of two or more persons:

Provided that by such resumption, the total extent of land in the possession of the landlord shall not be raised above 5 standard acres and the total extent of land in the possession of the tenant shall not be reduced below twenty cents:

Provided further that no landlord shall be entitled to resume under this section any land in the possession of a tenant belonging to the Scheduled Castes or Scheduled Tribes.

Explanation.—For the purposes of this section, and sections 16 and 17, “member of his family” shall mean,—

(i) in the case of a landlord who has granted a lease on behalf of a joint family, member of such family; and

(ii) in any other case, wife or husband, as the case may be, or a lineal descendent of the landlord.

16. *Resumption for personal cultivation from tenant holding more than ceiling area.*—A landlord (other than a sthani or the trustee or owner of a place of public religious worship) who requires the holding *bona fide* for cultivation by himself, or any member of his family, may resume from his tenant who is in possession of land exceeding the ceiling area, the whole or a portion of the holding, subject to the condition that, by such resumption, the total extent of land in the possession of the landlord is not raised above the ceiling area and the total extent of land in the possession of the cultivating tenant is not reduced below the ceiling area.

Explanation.—In this section, references to the ceiling area in relation to the landlord or the tenant shall, where such landlord or tenant is a member of a family, be construed as references to the ceiling area in relation to that family.

17. *Resumption for personal cultivation by small holder.*—Without prejudice to the right of resumption under section 16, a small holder (other than a sthani or the trustee or owner of a place of public religious worship) who requires the holding *bona fide* for cultivation by himself, or any member of his family, may resume from his tenant a portion of the holding not exceeding one-half:

Provided that, by such resumption, the total extent of land in the possession of the small holder shall not be raised above five standard acres and the total extent of land in the possession of the tenant shall not be reduced below 50 cents:

Provided further that, except as provided in sub-sections (2) and (3) of section 51, no land shall be resumed under this section from a tenant who was entitled to fixity of tenure in respect of his holding immediately before the 21st January, 1961, under any law then in force.”

18. *General conditions and restrictions applicable to resumption under sections 14, 15, 16 and 17.*—Resumption of land under sections 14, 15, 16 and 17 shall also be subject to the following conditions and restrictions, namely:—

(1) in respect of tenancies subsisting at the commencement of this Act, no application for resumption shall be made after a period of one year from such commencement:

Provided that where the landlord is a minor or a person of unsound mind or a member of the Armed Forces or a seaman, other than a member of the Armed Forces or seaman referred to in sub-section (2) of section 13, the right of resumption may be exercised,—

- (a) by the minor, within one year from the date on which he attains majority;
- (b) by the person of unsound mind within one year from the date on which he ceases to be of unsound mind;
- (c) by the member of the Armed Forces or seaman, within one year after he ceases to be such member or seaman;

(2) the right of resumption in respect of a holding shall be exercised only once, and the order of the Land Tribunal allowing resumption shall be given effect to only at the end of an agricultural year;

(3) no kudiyiruppu shall be resumed.

19. *Resumption of agricultural land interspersed within a plantation.*—A landlord may resume from a tenant any holding or part of a holding comprising agricultural lands of the description specified in sub-clause (c) of clause (44) of section 2,—

(a) if such holding or part thereof is necessary for the purposes of the plantation; or

(b) if the tenant wilfully commits any act of material waste in the plantation:

Provided that the order of the Land Tribunal allowing resumption shall be given effect to only after the expiry of the period, if any, fixed under the contract of tenancy and only at the end of an agricultural year.

20. *Tenants from whom land is resumed to be paid compensation for improvements, and solatium.*—(1) A tenant from whom land is resumed under the provisions of this Act shall be entitled to—

(i) compensation for the improvements belonging to him; and

(ii) a solatium of an amount equal to one year's rent.

(2) The compensation payable under clause (i) of sub-section (1) shall be determined in accordance with the provisions of the Kerala Compensation for Tenants Improvements Act, 1958.

21. *Priority for resumption.*—Where in respect of any holding there are more landlord than one the landlords mentioned below shall be entitled to resumption:—

(a) persons entitled to fixity of tenure in respect of the holding immediately before the 21st January 1961 under any law then in force ;

(b) Kanamdar ;

(c) land-owner:

Provided that the landlord nearer the cultivating tenant shall have preferential right over the landlord more remote.

22. *Procedure for resumption.*—(1) A landlord desiring to resume any land shall apply to the Land Tribunal within whose jurisdiction the land is situate for an order of resumption. The application shall be in such form and shall contain such particulars as may be prescribed.

(2) After making such enquiry as may be prescribed, the Land Tribunal may pass an order allowing resumption specifying the extent and location of the land allowed to be resumed, the rent payable in respect of the portion, if any, that would be left after resumption and such other particulars as may be prescribed and directing the landlord to make within such time and in such manner as may be prescribed, payments to extinguish the rights of the cultivating tenant and the intermediaries, if any, who would be affected by such resumption.

* * * * *

(3) The Land Tribunal may, for sufficient reasons, extend the time prescribed under sub-section (2) for making payments by the landlord.

(4) In deciding the location of the portion of the holding allowed to be resumed, the Land Tribunal shall have regard to the nature, fertility and other conditions of the portion of the land which may be allowed to be resumed and the portion left with the cultivating tenant.

(5) Where the application is for resumption under section 16 from a tenant who is in possession of land exceeding the ceiling area and there are other landlords under whom the tenant holds, the Land Tribunal shall give notice of the application to all other landlords so far as known to it, specifying a date within which they may apply for resumption of any land from such tenant. The Land Tribunal shall consider all applications from landlords for resumption from such tenant received within the specified time together, and, where the extent of land in the possession of the tenant in excess of the ceiling area

is less than the aggregate of the extent of land applied to be resumed by the landlords, the Land Tribunal shall allow resumption by all the landlords equitably having regard to all circumstances.

(6) Where any land is resumed after making the payments as directed by the Land Tribunal, all the rights of the cultivating tenant and the intermediaries, if any, holding between the landlord resuming the land and the cultivating tenant in respect of the land, shall stand extinguished.

(7) An order for resumption may be executed through the Court as if the order were a decree passed by it.

(8) Where a landlord fails to deposit the amounts in accordance with the directions of the Land Tribunal the order of resumption shall be treated as cancelled and the landlord shall have no further right for resumption.

23. *Tenant's right to sue for restoration of possession of land.*—(1) In any case in which any land has been resumed on the ground specified in section 14 or section 15 or section 16 or section 17, if within three years of such resumption, the person who resumed the land fails without reasonable excuse to use the land for the purpose for which it was resumed, the cultivating tenant shall, subject to the provisions of section 24, be entitled to apply to the Land Tribunal for the restoration to him of the possession of the land or a portion of the land which was resumed and to hold it with all the rights and subject to all the liabilities of a cultivating tenant:

Provided that a cultivating tenant shall not be entitled to restoration under this sub-section if he is in possession of land equal to or exceeding the ceiling area, nor shall a cultivating tenant be entitled to restoration of an extent of land which together with the extent of land in his possession will exceed the ceiling area.

(2) The provisions of section 22 shall, *mutatis mutandis*, be applicable to the form and procedure in regard to the application for restoration and the manner of execution of the orders of restoration.

24. *Limitation for application for restoration under section 23.*—An application for restoration under section 23 shall be made within one year from the expiry of three years after the resumption.

25. *Persons entitled to restoration.*—(1) Where restoration of any land resumed is ordered under section 23, the cultivating tenant shall hold the land directly under the landlord from whom restoration has been ordered and the rights of the intermediaries extinguished under sub-section (6) of section 22 shall not revive.

(2) Before such restoration the cultivating tenant shall pay to the person who resumed the land—

(i) the amounts paid by such person to the cultivating tenant and to the intermediary, if any, towards the value of the improvements effected by them and existing at the time of restoration;

(ii) the value of the improvements, if any, effected *bona fide* by such person between the date of resumption and the date of the application; and

(iii) any amount other than solatium received by the cultivating tenant from such person on account of the resumption.

(3) The rent payable by the cultivating tenant after the restoration of the holding shall be the fair rent.

26. *Eviction of tenant for non-payment of rent.*—(1) Notwithstanding anything contained in section 13, a cultivating tenant shall be liable to be evicted, if he has failed to pay during two consecutive years the rent in respect of his holding which accrued due after the commencement of this Act on or before the due date.

(2) In any suit in which eviction is claimed on the ground specified in sub-section (1), the court shall, if any amount is found due, pass a preliminary decree determining the amount of rent due with interest thereon at six per cent per annum up to the date of the decree and the costs payable by the cultivating tenant, and shall direct the cultivating tenant to deposit the amount within the period specified in

the decree. If the cultivating tenant so deposits the amount, the court shall record satisfaction of the decree and dismiss the suit. Where rent is not so deposited, the court shall pass a final decree for eviction and recovery of rent together with interests and costs.

(3) Where a landlord has obtained a decree for eviction of a cultivating tenant from his holding on the ground specified in sub-section (1), if the tenant deposits in court at any time before he is evicted, the entire amount as decreed with interests and costs incurred up to the date of deposit, the decree for eviction shall be set aside, and full satisfaction of the claim for arrears of rent, interests and costs recorded.

FAIR RENT

27. *Fair rent.*—The fair rent in respect of a holding shall be the rent payable by the cultivating tenant to his landlord and it shall be the rent calculated at the rates specified in Schedule III applicable to the class of lands comprising the holding:

Provided that the fair rent under this section shall not exceed,—

(i) where the fair rent in respect of the holding has been fixed under any law in force immediately before the commencement of this Act, such fair rent;

(ii) in other cases, twice the contract rent:

Provided further that the fair rent in respect of a holding where the cultivating tenant or an intermediary is holding under a small holder, shall, at the option of the small holder, be—

(a) the fair rent under this section; or

(b) where the fair rent in respect of the holding has been determined before the commencement of this Act under any law then in force, such fair rent, or, where fair rent has not been so determined, 75 per cent of the contract rent:

Provided also that the rent payable by a cultivating tenant who is a kanamdar or a customary verumpattamdar shall be the michavaram or the rent payable under the contract of tenancy.

28. *Exclusion of certain lands from liability to fair rent.*—Notwithstanding anything contained in section 27, where any land included in a holding is set apart for communal purposes, and is used for such purposes, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with that section.

29. *Rent payable by an intermediary.*—Where in respect of a holding there is an intermediary at the commencement of this Act and as a result of the determination of the fair rent there has been a reduction or increase in the rent payable by the cultivating tenant, the rent payable by the intermediary to his landlord shall be reduced or increased in the same proportion as the rent to which he was entitled was reduced or increased.

30. *Determination of fair rent by the Land Tribunal.*—(1) The cultivating tenant or any landlord may apply, in such form as may be prescribed, to the Land Tribunal for determining the fair rent in respect of a holding.

(2) On receipt of an application under subsection (1) the Land Tribunal shall issue notices to all persons interested and after enquiry, determine by an order—

(i) the fair rent in respect of the holding;

(ii) if there is an intermediary or intermediaries, the rent payable by such intermediary or intermediaries to his landlord or to their respective landlords;

(iii) the instalments, if any, in which the rent shall be payable; and

(iv) the date or dates on which the said rent or instalment shall be payable.

(3) In determining the fair rent under subsection (2), the Land Tribunal may take into account the statistics published under section 42.

31. *Agreement as to fair rent.*—Notwithstanding anything contained in the foregoing sections it shall be competent for the landlord and the tenant to agree

as to what shall be the fair rent payable in respect of the holding and where such an agreement signed by the landlord and the tenant is filed with the Land Tribunal, the Land Tribunal shall pass orders determining such agreed rent as the fair rent in respect of the holding:

Provided that the agreed rent shall not exceed the fair rent under section 28, in respect of the holding:

Provided further that where there are intermediaries or other persons having an interest in the holding, the landowner, the cultivating tenant and all the intermediaries and other persons interested shall be parties to such an agreement:

Provided also that this section shall not apply to a case where the landlord is a religious, charitable or educational institution of a public nature.

32. *Date from which order determining fair rent etc., is to take effect.*—The order determining the fair rent under section 30 or section 31 and the rent payable by an intermediary, shall take effect from the beginning of the agricultural year in which the tenant or the landlord filed the application for such determination or the agreement under section 31 and any amount paid by the tenant in excess of the rent so determined to the landlord till the date of determination shall be adjusted towards the payment of future rent or the purchase price payable under section 53 and where the amount of rent paid to the landlord is less than the rent so determined, the balance payable by the tenant shall be paid along with the rent payable immediately after the determination of the rent.

33. *Rent payable when Land Tribunal has not determined fair rent.*—Where in a case the rent payable in respect of a holding has not been determined by the Land Tribunal, either under section 30 or section 31, the landlord shall be entitled to receive and the tenant shall be bound to pay the rent that was payable immediately before the commencement of this Act.

Explanation.—For the purposes of this section, “the rent that was payable immediately before the commencement of this Act”, in the case of a varamdar, shall mean the average of * * * the share of the landlord in the produce for the three years immediately preceding such commencement, or, where the varamdar was not cultivating the land continuously for the said period of three years, * * * the share of the landlord for the year in which the varamdar cultivated the land last, immediately before such commencement.

34. *Mode of payment of rent.*—(1) Where the rent is payable in kind, it shall be paid either in kind or in money at the option of the tenant.

(2) The money value of the rent payable in kind shall be computed with reference to the rates published in the Gazette under section 41 for the date on which the rent is payable and, if no such rate is published for that date, at the rate for the nearest previous date for which a rate is so published:

Provided that where in respect of any commodity the price has not been published in the Gazette, the money value of such commodity shall be calculated at the market rate prevailing on the date on which the rent became due.

35. *Liability for assessment.*—(1) As between the tenant and the landlord the former shall be liable for any cess or special charges leviable by the Government for special or additional crops raised where such special or additional crops have not been taken into account.

(2) A tenant making any payment towards land revenue or any tax in respect of the land comprised in the holding payable by the landlord, to the Government or any local authority, shall be entitled to deduct the same from the rent payable by him to the landlord:

Provided that no such deduction shall be made if the rent payable by the tenant to the landlord is equal to or less than the land revenue or other tax so payable.

36. *Remission of rent.*—(1) Where there has been a damage to, or a failure of, crops owing to causes beyond the control of the tenant in any holding, the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure.

(2) The District Collector or any other officer authorised by the Government, by notification in the Gazette, in this behalf, shall, on an application to him by the tenant, determine after such enquiry as may be prescribed the extent of damage to, or failure of, crops under sub-section (1) and order such remission of rent as appears to him just and proper. The decision of the Collector or such other officer shall be final and the tenant shall be entitled to get the benefit of the remission so ordered.

(3) If, in any proceeding under sub-section (2), any question arises as to whether a person is or is not a tenant, it shall be competent for the District Collector or the officer authorised by the Government under sub-section (2) to decide the question, subject to the orders of any competent civil court.

Explanation.—For the purposes of this section, the term “crops” shall include cereal as well as cash crops.

37. *Abatement or reduction of rent.*—(1) Fair rent determined under this Act shall not be liable to alteration or revision except on the application made by the cultivating tenant to the Land Tribunal on the grounds specified in sub-sections (2) and (3).

(2) Where a portion of the land comprised in the holding is acquired under any law for the time being in force for the compulsory acquisition of land for public purposes, the tenant shall be entitled to an abatement in the rent in the same proportion as the yield from the portion acquired bears to the yield from the entire holding.

(3) Where any material part of the holding is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,

by fire, or flood or any other act of God, the rent payable shall be proportionately reduced.

38. *Invalidity of claims of dues other than rent payable.*—Notwithstanding any contract to the contrary, express or implied, no tenant shall be liable to pay to his landlord any customary dues or renewal fees or anything more or anything else than the rent payable under this Act.

39. *Arrears of rent to bear interest.*—Arrears of rent shall bear interest at the rate of six per cent per annum or at the contract rate, whichever is less.

40. *Priority of claim for arrears of rent.*—Arrears of rent due to the landlord, together with interest thereon shall be a charge on the interest of the tenant in the holding and shall, subject to the priority of the rights of the Government and any local authority for arrears of land revenue, tax, cess or other dues, be a first charge on such interest of the tenant.

41. *Publication of prices of commodities.*—The District Collector shall cause to be published every quarter, in such manner as may be prescribed, lists of prices prevailing in each taluk of commodities, the commutation rates of which are necessary for the purposes of this Act:

Provided that, before publishing such prices, the District Collector shall cause notice to be given to the public, in such manner as he thinks fit, of the prices proposed to be published and consider objections, if any, received within two weeks from the date of the notice.

42. *Publication of statistics relating to gross produce of lands.*—The Government shall cause to be published statistics of gross produce of different crops for different classes of land for different areas.

43. *Tenant's right to obtain receipt.*—(1) Every tenant paying any rent shall be entitled to receive

and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed.

(2) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,—

- (i) the money, if the rent is payable in money ; and
- (ii) the money value of the rent, if it is payable in kind.

44. *Application to Land Tribunal when landlord refuses to accept a tender.*—(1) If the landlord refuses to accept a tender of the rent or if the tenant is doubtful as to the person entitled to receive the same and no suit has been brought against the tenant for recovery of the said dues, the tenant may apply to the Land Tribunal in the prescribed manner for permission to pay the same through the Land Tribunal.

(2) Along with the application under sub-section (1) the tenant shall deposit with the Land Tribunal the said dues together with interest, if any, accrued thereon.

45. *Procedure on application under section 44.*—(1) When an application and deposit have been made under section 44, the Land Tribunal shall cause written notice thereof to be given at the cost of the applicant to every person, who, in the opinion of the Land Tribunal, is entitled to be heard thereon and after hearing such of them as appear, order the payment of the amount to the person entitled or bound to receive it and make directions regarding any interest, costs and such other matters as the Land Tribunal may deem fit.

(2) Nothing in sub-section (1) shall affect the right of any person to recover the said amount by suit from the person to whom it is paid, but the order allowing the application under section 44 shall be deemed a full acquittance to the tenant in respect of the amount covered by it.

46. *Apportionment of rent on severance of interest of landlord or tenant.*—(1) Where, by act of parties or by operation of law, the interest of the landlord or of the tenant in the land demised has been severed, the landlord or the tenant may apply to the Land Tribunal for the apportionment of the rent and the security for rent, if any.

(2) The application shall be in such form as may be prescribed.

(3) The Land Tribunal shall, after giving an opportunity to all persons interested, pass an order on such application apportioning the rent and the security for rent, if any, and directing the execution of a lease deed on the basis of such apportionment within a specified period and make such order as to the costs of the application as it may deem fit.

(4) If, within the time fixed by the Land Tribunal, such deed is not executed, the Land Tribunal shall, on the application of the person in whose favour such deed is to be executed and on the deposit by such person of such amount as the Land Tribunal may direct, execute the deed on behalf of the person in default; and the Land Tribunal shall, by order, direct that the cost of the execution of the deed may be realised by the applicant from the person in default.

(5) The order of the Land Tribunal under sub-section (3) or sub-section (4) regarding costs may be executed through the court as if it were a decree passed by it.

47. *Notice to landlord and intermediary when the interest in the holding of the tenant is acquired.*—

(1) Any person deriving an interest in the holding or part of the holding of a tenant by virtue of a title acquired by act of parties or by operation of law shall, where such interest is acquired after the commencement of this Act, within sixty days from the date of such acquisition, give registered notice of his interest in the holding or part of the holding to the landlord and the intermediaries, if any. The said notice shall

contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest.

(2) Where default is made by a tenant in the payment of rent, his landlord shall give registered notice of the default to the persons who have acquired interest in the holding or part of the holding prior to the date of such default and who have notified the existence of their interest under sub-section (1). The persons having interest in the holding shall be entitled to pay the arrears and the landlord shall be bound to receive such payment:

Provided that a person who has acquired interest only in a part of the holding, shall be bound to pay only so much of the rent or arrears of the same, as will on apportionment fall on such portion of the holding.

(3) Where there has been no agreement among the persons interested as to the apportionment referred to in the proviso to sub-section (2), the person who has acquired interest in the part of the holding may, within sixty days from the date of service of the notice of default, apply to the Land Tribunal for the apportionment, and the Land Tribunal shall, by order, make the apportionment.

(4) The order of the Land Tribunal under sub-section (3) may be executed through the court as if it were a decree passed by it.

48. *Rights of tenant to be heritable and alienable.*—Subject to the provisions of this Act all rights which a tenant has in his holding shall be heritable and alienable.

49. *Surrender by tenant.*—Notwithstanding anything contained in this Act, a tenant may terminate the tenancy in respect of any land held by him at any time by surrender of his interest therein in favour of the landlord:

Provided that such surrender shall not be effective unless it is made in writing and is admitted by the tenant before the Land Tribunal and is made

in good faith and is registered in the office of the Land Tribunal in the prescribed manner.

50. *Rights as to timber trees.*—(1) Notwithstanding any law, custom or contract to the contrary, all timber trees planted by the cultivating tenant or spontaneously sprouting and growing in his holding after the commencement of his tenancy as cultivating tenant shall belong to the cultivating tenant.

(2) Subject to the provisions of sub-sections (3), (4) and (5), in the case of timber trees standing in the holding of a cultivating tenant at the commencement of his tenancy, the cultivating tenant and if he does not require, the landowner or the intermediary, as the case may be, shall have the right to cut and remove such trees provided that the right conferred by this sub-section shall be exercisable by the intermediary only in case such timber trees were either planted by him or had spontaneously sprouted and grown during the period in which he was in possession of the holding.

(3) Where the cultivating tenant exercises his right under sub-section (2) he shall be liable to pay to the landowner or the intermediary, as the case may be, one-half of the market value of the timber trees so cut and removed.

(4) Where the landowner or the intermediary exercises his right under sub-section (2) he shall be liable to pay to the cultivating tenant one-half of the market value of the timber trees so cut and removed.

(5) The right conferred by sub-section (2) shall not be exercisable unless reasonable notice thereof in writing is given to the party to be affected by the exercise of the said right.

PURCHASE OF LANDLORDS' RIGHTS BY CULTIVATING TENANTS

51. *Cultivating tenant's right to purchase landlord's rights.*—(1) Subject to the provisions of sub-section (2), a cultivating tenant (including the tenant of a kudiyruppu), entitled to fixity of tenure

under section 13, shall be entitled to purchase the right, title and interest of the landowner and the intermediaries, if any, in respect of the land comprised in his holding:

Provided that—

(i) if the landlord is entitled to resume any portion of the holding under this Act and he applies for such resumption, the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the intermediaries only in respect of the remaining portion of the holding;

(ii) no cultivating tenant shall be entitled to purchase the right, title and interest in respect of any land under this section if he, or if he is a member of a family, such family owns an extent of land not less than the ceiling area;

(iii) where the cultivating tenant or, if he is a member of a family, such family, does not own any land or owns an extent of land which is less than the ceiling area, he shall be entitled to purchase the right, title and interest in respect of only such extent of land as will, together with the land, if any, owned by him or his family, as the case may be, be equal to the ceiling area.

Explanation I.—An intermediary who has resumed any land comprised in his holding under this Act, or to whom possession of any land has been surrendered under section 49, shall be deemed to be the cultivating tenant in respect of such land for the purposes of this sub-section.

Explanation II.—In calculating the extent of land owned by the cultivating tenant or, where he is a member of a family, by such family, for the purposes of clause (ii) or clause (iii) of the proviso to this sub-section, the portion of the land owned by such cultivating tenant or by the family, which is liable to be purchased by the cultivating tenants holding under such tenant or family, shall not be taken into account.

(2) Notwithstanding anything contained in sub-section (1),—

(i) where the landowner or an intermediary is a religious, charitable or educational institution of a public nature, the right of the cultivating tenant to purchase the right, title and interest of the landowner and intermediaries shall be subject to the provisions of sections 63 to 69.

(ii) where the landowner or an intermediary is a small-holder and the cultivating tenant was entitled to fixity of tenure immediately before the 21st January, 1961, under any law then in force, the cultivating tenant shall not be entitled to purchase the right, title and interest of the landowner and the intermediaries, unless the cultivating tenant agrees in writing that the small-holder may exercise the right of resumption in respect of the holding under section 17.

(3) Where a cultivating tenant agrees under clause (ii) of sub-section (2) that the small-holder may exercise the right of resumption,—

(i) the small-holder shall, notwithstanding anything contained in the second proviso to section 17 and notwithstanding the expiry of the period fixed under clause (1) of section 18 for making application for resumption, be entitled to exercise the right of resumption under that sub-section to the same extent and in the same manner as if the cultivating tenant was not entitled to fixity of tenure immediately before the 21st January, 1961; and

(ii) the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the intermediaries in respect of the remaining part of the holding left after resumption.

52. *Application for purchase of landlord's rights by cultivating tenants.*—(1) A cultivating tenant entitled to purchase the right, title and interest of the landowner and the intermediaries under section 51 may apply to the Land Tribunal for the purchase of such right, title and interest.

(2) The application for the purchase under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed. The application from a cultivating tenant referred to in clause (ii) of sub-section (2) of section 51 shall be accompanied by a statement agreeing to the exercise of the right of resumption by the small-holder.

(3) Where a cultivating tenant is entitled to purchase the right, title and interest in respect of only a portion of the land held by him, he may indicate in the application, his choice of the portion, the rights, title and interests over which he desires to purchase.

53. *Purchase price.*—The price payable by the cultivating tenant for the purchase of the right, title and interest of the landowner and the intermediaries, if any, shall be the aggregate of—

(i) sixteen times the fair rent in respect of the holding or part thereof to which the purchase relates;

(ii) the value of structures, wells and embankments of a permanent nature belonging to the landowner or the intermediaries, if any; and

(iii) one-half of the value of timber trees belonging to the landowner or the intermediaries, if any.

Explanation.—For the purposes of this section, where the rent is payable in kind, the money value of the rent shall be computed at the average of the prices of the commodity for the six years immediately preceding the year of determination of the purchase price, and in calculating the average of the prices, the prices, if any, published under section 41 may also be taken into account.

54. *Purchase price to be distributed among the landowner and intermediaries.*—(1) Where the right, title and interest of the landowner and the intermediaries in respect of a holding have been purchased by the cultivating tenant, the purchase price paid by the cultivating tenant shall be paid to the landowner

or apportioned among the landowner and the intermediaries, as the case may be, in accordance with the provisions of sub-sections (2) and (3).

(2) Where there is no intermediary, the landowner shall be entitled to the entire purchase price paid by the cultivating tenant.

(3) Where there is an intermediary or there are intermediaries—

- (i) the amount of 16 times the fair rent paid by the cultivating tenant shall be apportioned among the landowner and the intermediary or intermediaries in proportion to the profits derived by them from the holding; and
- (ii) the value of structures, wells and embankments of a permanent nature and half the value of the timber trees paid by the cultivating tenant shall be paid to the landowner or the intermediary to whom such structures, wells, embankments and timber trees belong.

Explanation.—“Profits derived from the holding” shall, for the purposes of this sub-section, mean, in the case of the landowner, the rent to which he is entitled and in the case of an intermediary, the difference between the rent due to him from his tenant and the rent for which the intermediary is liable to his landlord.

55. *Procedure before the Land Tribunal.*—(1) As soon as may be after the receipt of the application under section 52, the Land Tribunal shall give notice to the landowner, the intermediaries and all other persons interested in the holding, to prefer claims or objections with regard to the application. The Land Tribunal shall also by notice require the landowner or the intermediary to apply for resumption if such landowner or intermediary is entitled to resumption and has not already applied for such resumption.

(2) The Land Tribunal shall after considering the claims and objections received and hearing any person appearing in pursuance of the notice issued

under sub-section (1) and after making such enquiries as it may consider necessary, pass orders—

(i) on the application, if any, whether pending before it or filed in pursuance of the notice under sub-section (1) from the landowner or intermediary for resumption, in accordance with the provisions of section 22; and

(ii) on the application for purchase under section 52.

(3) Where the cultivating tenant is entitled to purchase only a portion of the land left after resumption, the Land Tribunal shall, as far as possible, allow the purchase of the portion indicated in the application under sub-section (3) of section 52.

(4) An order under clause (ii) of sub-section (2) allowing the application shall specify—

(i) the purchase price payable by the cultivating tenant;

(ii) the amount due to the landowner and each of the intermediaries, if any, on the apportionment of the purchase price paid by the cultivating tenant;

(iii) the value of encumbrances subsisting or claims for maintenance or alimony charged on the rights, title and interests of the landowner and the intermediaries, if any;

(iv) the amounts payable to the holder of the encumbrance or the person entitled to the maintenance or alimony; and

(v) the amount payable to the landowner and each of the intermediaries after deducting the value of the encumbrance or the claims for maintenance or alimony.

(5) If the landowner or intermediary is liable to pay any amount to the cultivating tenant under this Act, the Land Tribunal shall, in passing orders on the application for purchase, set off such amount against the purchase price payable to the landowner or the intermediary.

(6) The Land Tribunal shall, as soon as may be, forward a copy of the orders under sub-section (2) to the Land Board.

56. *Purchase price payable in instalments or in lump.*—The purchase price determined under section 55 shall be payable in sixteen equal annual instalments:

Provided that where the purchase price is less than Rs. 160, the number of instalments shall be so fixed by the Land Tribunal that the amount payable in each instalment shall not be less than Rs. 10:

Provided further that it shall be open to the cultivating tenant to pay the entire purchase price in a lump, in which case the amount payable shall be only seventy-five per cent of the purchase price.

57. *Deposit of purchase price and issue of certificate of purchase.*—(1) Where an application under section 52 has been allowed and the purchase price determined under section 55 by the Land Tribunal, the cultivating tenant shall deposit with the Land Tribunal to the credit of the Land Board,—

(i) where the purchase price is proposed to be paid in a lump, the entire amount due within one year; or

(ii) where the purchase price is proposed to be paid in instalments, the first instalment thereof within three months,

from the date on which the period prescribed for preferring appeal from the orders of the Land Tribunal has expired or, where there was an appeal, from the date on which the appeal was disposed of.

(2) On the deposit of the purchase price in a lump or of the first instalment of such price, the Land Board shall issue a certificate of purchase to the cultivating tenant and thereupon the right, title and interest of the landowner and the intermediaries, if any, shall vest in the cultivating tenant free from all encumbrances with effect from the date of such deposit. The certificate of purchase shall be conclusive proof of the purchase by the tenant of the right, title and interest of the landowner and the

intermediary, if any, over the holding or portion thereof.

(3) - Where a cultivating tenant fails to deposit the purchase price in lump or the first instalment thereof on or before the due date, the order of the Land Tribunal under section 55 shall stand cancelled and the cultivating tenant shall continue as cultivating tenant.

(4) Where the purchase price is paid in instalments, the second and subsequent instalments shall be deposited in the Government treasury in the prescribed manner to the credit of the Land Board.

58. *Purchase price to bear interest.*—The purchase price payable shall bear interest at the rate of 4½ per cent per annum from the date on which the right, title and interest of the landowner and the intermediaries vested in the cultivating tenant. Where the purchase price is paid in instalments, the second and subsequent instalments shall be deposited together with interest on the amount outstanding on the date of deposit.

59. *Cultivating tenant to pay rent pending purchase.*—Notwithstanding the filing of an application under section 52, a cultivating tenant shall be liable to pay rent to his landlord until he makes the deposit under sub-section (1) of section 57.

60. *Recovery of instalments of purchase price on default.*—For the purchase price payable by the cultivating tenant, there shall be a first charge on the land to which the purchase relates, subject to the charges for any dues payable to the Government. Where the second or any subsequent instalment is not deposited on the due date, the Land Board may, on application from any person entitled to the instalment of the purchase price in default or any part thereof, pass an order directing the payment of the amount; and the order of the Land Board may be executed through the court as if it were a decree passed by it.

61. *Payment of purchase price, amount of encumbrance, maintenance or alimony.*—(1) The purchase

price payable to the landowner and the intermediaries shall be distributed by the Land Board according to the provisions of sub-sections (2) to (9).

(2) Where the right, title and interest of the landowner or the intermediaries are not subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall be paid to the landowner or apportioned among the landowner and the intermediaries in the manner specified in sub-section (2) or sub-section (3), as the case may be, of section 54.

(3) Where the right, title and interest of the landowner or the intermediaries in the holding are subject to any encumbrance or charge for maintenance or alimony, the value of such encumbrance, maintenance or alimony shall be deducted from the purchase price payable to the landowner or the intermediary, as the case may be, and the balance amount shall be paid to the landowner or apportioned among the landowner and the intermediaries in the manner specified in sub-section (2) or sub-section (3), as the case may be, of section 54. If the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the purchase price payable to the landowner or the intermediary, the whole amount shall be reserved for payment to the holder of the encumbrance, or the person entitled to the maintenance or alimony and no amount shall be paid to the landowner or the intermediary, as the case may be.

(4) Where the right, title and interest of the landowner or the intermediary vested in the cultivating tenant form part of the security for any encumbrance or charge for maintenance or alimony, the Land Tribunal shall, for the purpose of discharging the same, apportion the entire encumbrance or the charge for the maintenance or alimony between the portion of the land, the right, title and interest over which vested in the tenant and the portion remaining after such vesting, in proportion to the values of the two portions of the property, and discharge only the liability pertaining to the portion to which the purchase relates.

(5) Where any amount has been deducted or reserved for payment to the holders of the encumbrances or the persons entitled to the maintenance or alimony, the same shall be paid in their order of priority to the persons entitled thereto and on such payment the liability in respect of the encumbrance, maintenance or alimony shall stand extinguished:

Provided that where the encumbrance is a mortgage or charge created for securing a loan advanced by the Government, a co-operative society including a land mortgage bank registered or deemed to be registered under the Co-operative Societies Act for the time being in force, the Kerala Financial Corporation, the Kerala Industrial Development Corporation, the State Small Industries Corporation or the Rubber Board or in respect of a debt under an over-draft agreement with a banking company as defined in the Banking Companies Act, 1949, nothing in this subsection shall affect the right of the Government, the co-operative society, the Corporation, the Rubber Board or the banking company, as the case may be, to proceed against the other assets or the person of the debtor for the balance outstanding, if any.

(6) Where the cultivating tenant pays the purchase price in instalments, the amount of each instalment shall be distributed in the manner specified above. The interest on the purchase price paid by the cultivating tenant shall also be paid to the landowner, intermediary, holder of the encumbrance or the person entitled to the maintenance or alimony, as the case may be.

(7) Where a person entitled to the purchase price, the value of the encumbrance, maintenance or alimony dies before it is paid to him, it shall be paid to his legal representatives.

(8) Where the person entitled to receive the purchase price or the value of encumbrance is a private trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the purchase price or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government

may give, be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(9) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this Act, the court or authority may require the Land Board to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

62. *Payment of purchase price to the landowner or intermediary to be full discharge.*—The payment of purchase price or the value of encumbrance, maintenance or alimony to the landowner or intermediary or other persons entitled thereto in the manner specified in section 61 shall be a full discharge of the liability for payment of purchase price to the landowner and the intermediaries and no further claims for payment of purchase price shall lie.

63. *Special provisions relating to religious, charitable and educational institutions of a public nature.*—

(1) Notwithstanding anything contained in sections 51 to 62, where, in respect of a holding, the landowner or the intermediary is a religious, charitable or educational institution of a public nature (hereinafter in this section and sections 64, 65, 66, 68 and 69 referred to as the institution), such institution may choose—

(i) whether the right, title and interest of the institution in respect of the holding may be permitted to be purchased by the cultivating tenant in accordance with the provisions of sections 51 to 62; or

(ii) whether such right, title and interest should be vested in the Government in consideration of the payment of an annuity in perpetuity by the Government:

Provided that the choice of the institution under this sub-section shall be the same in respect of all lands held by tenants under it.

(2) The annuity payable to the institution in consideration of vesting in the Government of its right, title and interest in respect of a holding shall be a sum equal to the annual rent which the institution was entitled to receive immediately before the 21st January, 1961, after deducting $2\frac{1}{2}$ per cent thereof by way of collection charges.

Explanation.—Where the rent payable to an institution is in kind, the annuity payable shall be commuted into money at the average of the prices of the commodity for six years immediately preceding the year in which the annuity is determined.

64. *Application for vesting.*—(1) The institution may apply to the Government for the vesting of its right, title and interest in respect of all lands held by tenants under it. The application shall be in such form as may be prescribed.

(2) On receipt of such application, the Government shall direct the Land Tribunal to determine the annuity and other amounts to be paid as compensation for vesting in the Government the right, title and interest of the landowner and intermediaries in respect of all lands held by tenants under the institution.

(3) The compensation payable to the landowner and the intermediaries, other than the institution, shall be the same as the purchase price to which they would have been entitled under section 54 if their right, title and interest had been purchased by the cultivating tenant.

(4) The Land Tribunal shall, as far as may be, in the manner laid down in section 55. by order. determine—

- (i) the annuity payable to the institution in respect of each of the holdings;
- (ii) the compensation payable to the landowner and intermediary, other than the institution;
- (iii) the value of the encumbrances subsisting or the claims for maintenance and alimony charged on the right, title and interest

- of the landowner and the intermediaries, if any;
- (iv) the amount payable to the holders of the encumbrances or the persons entitled to the maintenance or alimony;
 - (v) the amount payable to the landowner and each of the intermediaries after deducting the value of the encumbrance or the claims for maintenance or alimony.

65. *Vesting of landlord's rights in Government.*—As soon as may be after the determination of the annuity under section 62, the Government shall issue a notification in the Gazette declaring that the right, title and interest of the landowner and all the intermediaries in respect of the lands held by tenants under the institution shall vest in the Government with effect from a date to be specified in the notification, and all such right, title and interest shall accordingly vest in the Government free from all encumbrances.

66. *Payment of compensation.*—(1) The Government shall pay the annuity payable to the institution every year in perpetuity on such date or dates and in such manner as may be prescribed.

(2) The Land Board shall pay the amounts due to the landowner and the intermediaries other than the institutions, and also to the holders of the encumbrance and persons entitled to maintenance or alimony, if any.

(3) The provisions of sections 61 and 62 shall, as far as may be, apply to the payments to be made under sub-sections (1) and (2) and the discharge of the liability in respect of compensation, encumbrance or claims for maintenance or alimony:

Provided that where the right, title and interest of the institution are subject to any encumbrance, instead of deducting the value of the encumbrance from the purchase price under sub-section (3) of section 61, five per cent of the value of the encumbrance shall be deducted from the annuity, and the balance, if any, alone shall be paid to the institution

as annuity. The value of the encumbrance or twenty-times the annuity whichever is less shall be paid to the holder of the encumbrance.

67. *Assignment.*—(1) A cultivating tenant may apply to the Land Tribunal for the assignment of the right, title and interest of the landowner and intermediaries in respect of his holding vested in the Government under section 65.

(2) The application for assignment shall be in such form as may be prescribed.

(3) The purchase price payable by the cultivating tenant for the assignment of the right, title and interest of the landowner and the intermediaries shall be the purchase price that would have been payable by him under section 53 if he had purchased such right, title and interest on application under section 52, and such purchase price shall be payable either in a lump or in instalments as provided in section 56.

(4) The Land Tribunal shall, on payment by the cultivating tenant of the purchase price or the first instalment thereof, assign the right, title and interest of the landowner and the intermediaries vested in the Government, if by such assignment the extent of land owned by the cultivating tenant or, where he is a member of a family, by such family, will not exceed the ceiling area.

(5) For the balance of the purchase price payable by the cultivating tenant, there shall be a charge on the land to which the assignment relates, and any instalment of the purchase price in default shall be recoverable as arrears of land revenue under the Revenue Recovery Act for the time being in force.

(6) Notwithstanding the filing of an application under sub-section (1), the cultivating tenant shall be liable to pay rent to the Government until he makes the payment of the purchase price or the first instalment thereof.

68. *Choice for annuity where cultivating tenant applies for purchase.*—Where a religious, charitable or educational institution of a public nature receives

under section 55 notice of an application by a cultivating tenant for the purchase of the right, title and interest of the institution, the institution may file a statement with the Land Tribunal specifying its choice that the right, title and interest of the institution in respect of all lands held by tenants under it may be vested in the Government and the institution be paid the annuity to which it is entitled under section 64. Thereupon, the provisions of sections 63 to 67 shall apply and the application from the cultivating tenant under section 52 shall be treated as an application under section 67 for the assignment of the right, title and interest of the landowner and the intermediaries.

69. *Purchase of right, title and interest of institutions.*—Where on receipt of a notice under section 55, the institution does not file a statement of its choice as provided in section 68, the institution shall be deemed to have chosen to permit the cultivating tenant to purchase its right, title and interest and the provisions of sections 51 to 62 shall apply to the purchase of the right, title and interest of the landowner and the intermediaries, the payment of purchase price and discharge of liabilities.

70. *Cultivating tenant to continue as tenant under the Government in certain circumstances.*—(1) Where a cultivating tenant does not apply for the assignment of the right, title and interest vested in the Government under section 65, he shall continue as cultivating tenant under the Government and be liable to pay the fair rent in respect of the holding.

(2) The fair rent payable by the tenant under sub-section (1) shall, on default, be recoverable as an arrear of land revenue under the Revenue Recovery Act for the time being in force.

71. *Vesting of landlord's rights in tenants.*—(1) At any time after the expiry of the period allowed under clause (1) of section 18 for applying for resumption of land, or, where any appeal has been preferred from the orders of the Land Tribunal under section 22, after the disposal of the appeal, and where the landowner or an intermediary is a religious,

charitable or educational institution of a public nature, after consulting such institution as to whether it chooses for its right, title and interest being purchased by the cultivating tenant or whether such right, title and interest should be vested in the Government in consideration of the payment of an annuity, the Government may, by notification in the Gazette, declare that the right, title and interest of the landowners and intermediaries in respect of holdings, which have not been purchased by cultivating tenants or vested in the Government under the foregoing provisions, shall,—

- (i) where the landowner or an intermediary is a religious, charitable or educational institution of a public nature, and that institution has expressed its choice that its right, title and interest may be vested in the Government, vest in the Government; and
- (ii) in any other case, vest in the cultivating tenant,

free from all encumbrances; and different notifications may be issued for different areas in the State.

(2) Upon the issue of a notification under subsection (1), the right, title and interest of the landowners and intermediaries shall vest in the Government or the cultivating tenants, as the case may be, free from all encumbrances, and the provisions of sections 53 to 69 shall, as far as may be, apply in regard to the purchase price payable by the cultivating tenant, the distribution of the purchase price among the landowner and the intermediaries, payment or recovery of purchase price, the discharge of encumbrances, payment of annuity to religious, charitable or educational institutions of a public nature, and assignment of the right, title and interest vested in the Government to the cultivating tenant:

Provided that the right, title and interest of any landowner and intermediaries vested in the Government shall be assigned to the cultivating tenant, whether he has applied for such assignment

under section 67 or not, and the cultivating tenant shall have no right to refuse such assignment.

72. *Discharge of arrears of rent.*—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, or in any decree or order of court all arrears of rent accrued due from a tenant during the period and outstanding on the date specified in column (2) below, shall be deemed to be fully discharged by payment to the landlord or deposit in court for payment to the landlord, of the amount referred to in the corresponding entry in column (3), together with interest at the rate of six percent per annum, within the period specified in column (4).

<i>Sl. No.</i>	<i>Periods during which the arrears accrued due and the dates on which they were outstanding</i>	<i>Amount of the rent to be paid for discharge</i>	<i>Period within which the payment is to be made.</i>
(1)	(2)	(3)	(4)
(i)	All arrears outstanding on 11-4-1957	Fifty per cent of such arrears provided that the amount payable shall not be less than an amount equal to one year's rent or the actual amount in arrears, whichever is less, and shall not be more than an amount equal to three years' rent.	3 months from the commencement of this Act.
(ii)	Arrears of rent accrued due on or after 11-4-1957 and outstanding on 15-2-1961.	Seventy-five per cent of such arrears	3 months from the commencement of this Act.
(iii)	Arrears of rent accrued due on or after 15-2-1961 and outstanding at the commencement of this Act	Seventy-five per cent of the contract rent or, where fair rent has been fixed under any law in force immediately before 15-2-1961, at the rate of such fair rent.	6 months from the commencement of this Act.

Explanation.—For the purposes of this sub-section, arrears of rent due from a varamdar shall be calculated on the basis of the average of * * * the share of the landlord in the produce for the three years immediately preceding the commencement of this Act or, where a varamdar was not cultivating the land continuously for the said period of three years, * * * the share of the landlord for the year in which the varamdar cultivated the land last immediately before the commencement of this Act.

(2) Where a tenant has paid or deposited under section 6 of the Kerala Tenants and Kudikidappukars Protection Act, 1963 before the commencement of this Act, any amount towards the arrears of rent referred to in item (i), item (ii) or item (iii) of sub-section (1), such amount shall be deducted from the amount to be paid or deposited under that item and it shall be sufficient if the tenant pays or deposits the balance, if any, after such deduction, and where the amount so paid or deposited exceeds the amount to be paid or deposited under sub-section (1) for the discharge of the arrears the excess shall be adjusted towards rent accrued due thereafter.

(3) Notice of any deposit made under sub-section (1) shall be given to the landlord by the court, and the cost of the notice shall be paid by the tenant so depositing the rent, and the landlord shall be at liberty to withdraw such amount under the orders of the court.

(4) Where the rent is payable in kind, the amount to be paid or deposited under sub-section (1) shall be computed at the market rate of the commodity prevailing on the date on which the rent became payable under the contract of tenancy or under any law or under any custom or usage.

(5) Where any amount deposited under sub-section (1) is found to be less than the amount to be deposited under that sub-section computed in the manner specified in sub-section (4) due to *bona fide* error in the computation, the court may allow the person who has deposited the amount, reasonable time for depositing the balance amount, and where the

balance amount is deposited within the time so allowed, the person who has so deposited shall be deemed to have deposited the amount within the time allowed under sub-section (1).

(6) Where a tenant fails to make the payment or deposit as required under item (i), item (ii) or item (iii) of sub-section (1) within the period specified therefor, the tenant shall forfeit the benefits conferred by that sub-section in so far as it relates to the arrears of rent specified in that item, and he shall be liable to pay the entire arrears lawfully recoverable for the period to which such arrears relate.

(7) Notwithstanding anything contained in this section, a tenant who has paid the amount as provided in section 34 of the Kerala Agrarian Relations Act, 1960, or in section 5 of the Kerala Ryotwari Tenants and Kudikidappukars Protection Act, 1962, for the discharge of arrears of rent outstanding on the 11th April, 1957, or the arrears of rent accrued due after the 11th April, 1957 and outstanding on the 15th January, 1961, on or before the date specified in those Acts for the payment of the amount, shall not be liable to pay any amount towards arrears of rent for that period.

73. *Prohibition of future tenancies.*—(1) After the commencement of this Act, no tenancy shall be created in respect of any land:

Provided that any landowner who is—

- (i) a minor;
- (ii) a widow;
- (iii) an unmarried woman;
- (iv) a divorced woman;
- (v) a person incapable of cultivating land by reason of any physical or mental disability; or
- (vi) a serving member of the Armed Forces or a Seaman;

may create a tenancy, but the tenant shall not be entitled to any right conferred on a tenant under this Chapter.

(2) Any tenancy created in contravention of the provisions of sub-section (1) shall be invalid.

Rights and Liabilities of Kudikidappukars

74. *Kudikidappukaran to have fixity.*—(1) No Kudikidappukaran shall be liable to be evicted from his kudikidappu except on the following grounds namely:—

- (i) that he has alienated his right of kudikidappu to another person;
- (ii) that he has rented or leased out his kudikidappu to another person;
- (iii) that he has ceased to reside in the kudikidappu continuously for a period of two years; or
- (iv) that he has another kudikidappu or has obtained ownership and possession of land which is fit for erecting a homestead.

Explanation.—For the purposes of this sub-section, a kudikidappukaran shall not be deemed to have ceased to reside in a kudikidappu, notwithstanding the fact that he was not actually residing therein, if any of his near relatives who was residing with him in the kudikidappu for a continuous period of not less than one year continues to reside in the kudikidappu; and in such a case the near relative who continues to reside in the kudikidappu shall be liable for the rent payable by the kudikidappukaran; and 'near relative' shall mean husband or wife, children, grand children, father, mother, brother or sister.

(2) Notwithstanding anything contained in sub-section (1), the person in possession of the land on which there is a home-stead or hut (hereinafter in this sub-section referred to as the landholder) in the occupation of a kudikidappukaran may, if he *bona fide* requires the land—

(a) for building purposes for himself or any member of his family including major sons and daughters; or

(b) for purposes in connection with a town planning scheme approved by the competent authority; or

(c) for any industrial purpose, demand the Kudikidappukaran, to shift to a new site belonging to him subject to the following conditions, namely:—

(i) the landholder shall pay to the kudikidappukaran the price of the home-stead, if any, erected by the kudikidappukaran;

(ii) the new site shall be fit for erecting a home-stead and shall be within a distance of one mile from the existing kudikidappu;

(iii) the extent of the new site shall be the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents.

(iv) the landholder shall transfer ownership and possession of the new site to the kudikidappukaran and shall pay to him the reasonable cost of shifting the kudikidappu to the new site.

Where the above conditions are complied with the kudikidappukaran shall be bound to shift to the new site.

(3) Notwithstanding anything contained in subsections (1) and (2), where a person does not hold more than 25 cents of land and there is a hut in the occupation of a kudikidappukaran on such land, he may, if he requires the land occupied by such hut, for constructing a building for his own residence, apply to the Government for the acquisition of land to which the kudikidappu may be shifted. In such application he shall offer to deposit, whenever called for, the cost of acquisition of land equal to the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents.

An officer authorised by the Government in this behalf may, after collecting the cost of acquisition from the applicant, acquire the necessary land under the Kerala Land Acquisition Act, 1961, give possession of the land to the Kudikidappukaran and require him to

shift to the said land. The kudikidappukaran shall thereupon be bound to shift to the new site. The kudikidappukaran shall be entitled before he so shifts to receive from the person in possession of the land on which his hut was originally located, the expenses as determined by such officer to be reasonably required to shift to the new site.

(4) Where the owner of the land in which there is a kudikidappu considers that the kudikidappu is so located as to cause inconvenience to him, he may require the kudikidappukaran to shift to another part of the land:

Provided that the site to which the kudikidappu is required to be shifted is fit for the location of the kudikidappu:

Provided further that the owner of the land shall transfer to the kudikidappukaran ownership and possession of land equal to the extent of the existing kudikidappu, subject to a minimum of three cents and a maximum of ten cents and pay the cost of shifting the kudikidappu.

75. *Rent payable by kudikidappukaran.*—(1) All arrears of rent, if any, payable, by a kudikidappukaran on the date of the commencement of this Act, whether the same be payable under any law, custom or contract or under a decree or order of court shall be deemed to be fully discharged if he pays one year's rent or the actual amount in arrears whichever is less.

(2) On and after the commencement of this Act, notwithstanding any contract, decree or order of court, a kudikidappukaran shall not be required to pay more than six rupees yearly as rent in respect of his kudikidappu which is not situated within the limits of any municipal corporation or any municipality:

Provided that a kudikidappukaran who was not liable to pay any rent in respect of his kudikidappu immediately before the commencement of this Act

shall not be liable to pay any rent; nor shall a kudikidappukaran be liable to pay any rent in excess of that which he was paying before the commencement of this Act.

76. *Filing of suits against kudikidappukaran in certain cases.*—If the Kudikidappukaran does not comply with the demand made by the person in possession of the land under sub-section (2) of section 74 or by the owner under sub-section (4) of that section to shift to a new site the person in possession of the land or the owner, as the case may be, may institute a suit against him for the purpose. The court, on being satisfied that such person has complied with all the conditions mentioned in sub-section (2) or sub-section (4) of section 74, may pass a decree for shifting the kudikidappu:

Provided that no such suit shall be instituted without giving the kudikidappukaran one month's notice by registered post.

77. *Right of kudikidappukaran to be heritable but not alienable.*—The rights of a Kudikidappukaran in his kudikidappu shall be heritable but not alienable.

78. *Right of kudikidappukaran to maintain, repair, etc., homestead or hut.*—(1) The kudikidappukaran shall have the right to maintain, repair and reconstruct with the same or different materials, but without increasing the plinth area, the hut belonging to the person who permitted occupation by the kudikidappukaran, or the homestead, at his own cost.

(2) Where any such hut or homestead is reconstructed under sub-section (1), the kudikidappukaran shall not be entitled, on eviction, to any compensation towards the cost of such hut or towards any increase in the value of the homestead, so reconstructed.

CHAPTER III

RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND IN EXCESS OF CEILING AREA AND DISPOSAL OF EXCESS LANDS

79. *Exemptions.*—(1) The provisions of this chapter shall not apply to—

(a) lands owned or held by the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or any other authority which Government may, in public interest, exempt, by notification in the Gazette, from the provisions of this Chapter.

Explanation.—“Lands owned by the Government of Kerala” shall, for the purposes of this clause, have the same meaning as “Government land” under sub-section (1) of section 2 of the Kerala Government Land Assignment Act, 1960;

(b) lands taken under the management of the Court of Wards:

Provided that the exemption under this clause shall cease to apply at the end of three years from the commencement of this Act;

(c) lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops;

(d) private forests;

(e) plantations;

(f) cashew estates existing at the commencement of this Act and having a contiguous extent of ten acres or more.

Explanation.—For the purposes of this clause, “cashew estate” shall mean dry lands principally cultivated with cashewnut trees;

(g) pure pepper gardens and pure arecanut gardens existing at the commencement of this Act and having a contiguous extent of five acres or more.

Explanation I.—For the purposes of this clause, “pure pepper garden” or “pure arecanut garden” shall mean a garden not less than ninety per cent of the area of which is planted with pepper-vines alone or arecanut trees alone, as the case may be.

Explanation II.—For the purposes of this clause, lands cultivated with pepper-vines trained on coconut trees shall not be deemed to be pure pepper gardens;

(h) lands purchased by the Kerala Co-operative Central Land Mortgage Bank or a primary mortgage bank under section 18 of the Kerala Co-operative Land Mortgage Banks Act, 1960, so long as such lands continue in the possession of the bank;

(i) lands belonging to or held by an industrial or commercial undertaking at the commencement of this Act, and set apart for use for the industrial or commercial purpose of the undertaking:

Provided that the exemption under this clause shall cease to apply if such land is not actually used for the purpose for which it has been set apart within such time as the District Collector may, by notice to the undertaking, specify in that behalf;

(j) kayal padasekharams of Kuttanad area specified in Schedule IV, so long as such padasekharams are used for the cultivation of paddy or such other crops as the Government may, by notification in the Gazette, specify;

(k) house sites, that is to say, sites occupied by dwelling houses, tanks, wells or any other structures together with the land necessary for the convenient enjoyment of the same;

(l) unculturable waste lands;

(m) sites of temples, churches, mosques and cemeteries and burial and burning grounds;

(n) sites of buildings including warehouses,

(o) commercial sites;

(p) lands occupied by educational institutions including land necessary for the convenient use of

the institutions and play grounds attached to such institutions;

(q) lands vested in the Bhoodan Yagna Committee;

(r) lands owned or held by—

- (i) a University established by law; or
- (ii) a religious, charitable or educational institution of a public nature; or
- (iii) a public trust (which expression shall include a wakf):

Provided that—

- (i) the entire income of such lands is appropriated for the University, institution or trust concerned; and
- (ii) where the University, institution, or trust comes to hold the said lands after the commencement of this Act, the Government have certified previously that such lands are *bona fide* required for the purposes of the University, institution or trust, as the case may be; and

(s) lands granted to defence personnel for gallantry.

(2) The Government may exempt any land required by any person *bona fide* for any industrial or commercial purpose the promotion of which will, in the opinion of the Government, be in the public interest:

Provided that such land shall be used for the purpose for which it is intended within such time as the Government may specify in that behalf; and where the land is not so used within the time specified, the exemption shall cease to be in force.

(3) The Government may, if they are satisfied that it is necessary to do so in public interest on account of any special use to which any land is put, or on account of any land being *bona fide* required for the purpose of conversion into plantation or for the expansion or preservation of an existing plantation, or for starting dairy farms or cattle breeding farms, by notification in the Gazette, exempt such land

from the provisions of this Chapter subject to such restrictions and conditions as they may deem fit to impose.

80. *Ceiling area.*—(1) The ceiling area of land shall be—

(a) in the case of an adult unmarried person or a family consisting of not more than five members, twelve standard acres; and

(b) in the case of a family consisting of more than five members, twelve standard acres increased by one standard acre for each member in excess of five, so however that the total extent of the ceiling area shall not exceed twenty standard acres:

Provided that the ceiling area shall, in no case, be—

(i) less than fifteen acres in extent; or

(ii) more than thirty-six acres in extent.

(2) For the purposes of this Chapter, all the lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.

(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held by a co-operative society, or by an institution or by a joint family shall be taken into account.

Explanation.—For the purposes of this subsection, the share of a member of a family or an adult unmarried person in the lands owned or held by a co-operative society, or by an institution or by a joint family shall be deemed to be the extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under subsection (1) of section 81.

(4) Where after the commencement of this Act, any class of land specified in Schedule II has been

converted into any other class of land specified therein, the extent of land that may be owned or held by a family or adult unmarried person owning or holding such land at the time of the conversion shall be determined without taking into account such conversion.

(5) The lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution, or if he is not alive, by his successors-in-interest.

(6) In computing the ceiling area, lands exempted under section 79 shall be excluded.

Explanation.—For the purposes of this section, where a person has two or more legally wedded wives living, the husband, one of the wives named by him for the purpose and their unmarried minor children shall be deemed to be one family; and the other wife or each of the other wives and her unmarried minor children shall be deemed to be a separate family.

81. *Families and adult unmarried persons not to own or hold lands in excess of the ceiling area.*—

(1) Subject to the provisions of sub-section (2) with effect from such date as may be notified by the Government in the Gazette, it shall not be lawful for any family or any adult unmarried person to own or hold or to possess under a mortgage lands in the aggregate in excess of the ceiling area.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for any adult member in a family to own or hold land in excess of the ceiling area to the extent necessary to make up the ceiling area of his lineal descendants, other than his minor unmarried children, who are alive on the date notified under sub-section (1) and who would inherit his lands on his death:

Provided that the aforesaid adult member shall take into account all acquisitions of land or interests in land made by such lineal descendants or the members of their families for fixing the total extent that such adult member shall be entitled to own or hold.

from time to time, and shall be bound to surrender the excess.

Explanation I.—In the case of lineal descendants who are members of other families, the ceiling area shall be that applicable to their families.

Explanation II.—For the purposes of this subsection, “to hold land” shall include possessing land under a usufructuary mortgage.

82. *Certain voluntary transfers to be null and void.*—Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected after the date of publication of the Kerala Land Reforms Bill, 1963, in the Gazette, otherwise than—

- (i) by way of partition; or
- (ii) on account of natural love and affection;
- or
- (iii) in favour of a person who was a tenant of the holding before the 27th July, 1960, and continued to be so till the date of transfer; or
- (iv) transfer to a religious, charitable or educational institution of a public nature solely for the purposes of the institution;

by a member of a family or an adult unmarried person owning or holding land in excess of the ceiling area, shall be deemed to be transfers calculated to defeat the provisions of this Act and shall be invalid:

Provided that without prejudice to any other right of the parties to any such transfer, when any purchase price is payable under section 54 or any compensation is payable under section 86 for any land covered by the said transfer, it shall be competent for the Land Tribunal to award to the transferee, out of the purchase price or compensation amount in respect of such land, such sum as the Land Tribunal may consider just and proper.

83. *Surrender of excess lands.*—(1) Where a family or an adult unmarried person owns or holds land in excess of the ceiling area on the date notified

under sub-section (1) of section 81, such excess land shall be surrendered by the person who is competent to do so within such time and to such authority as may be prescribed:

Provided that where any person *bona fide* believes that the ownership or possession of any land owned or held by him or by the members of his family is liable to be purchased by the cultivating tenant or to be resumed by the landowner or the intermediary under the provisions of this Act, the extent of the land so liable to be purchased or to be resumed shall not be taken into account in calculating the extent of the land to be surrendered under this sub-section.

Explanation.—Where any land owned or held by a family or adult unmarried person owning or holding land in excess of the ceiling area, was transferred by such family or any member thereof or by such adult unmarried person, as the case may be, after the 18th December, 1957, and on or before the date of publication of the Kerala Land Reforms Bill, 1963, in the Gazette, otherwise than—

- (i) by way of partition; or
- (ii) on account of natural love and affection; or
- (iii) in favour of a person who was a tenant of the holding before the 18th December, 1957, and continued to be so till the date of transfer; or
- (iv) transfer to a religious, charitable or educational institution of a public nature solely for the purposes of the institution,

the extent of land owned or held by such family or adult unmarried person shall be calculated for purposes of fixing the extent of land to be surrendered under this section as if such transfer had not taken place and such family or adult unmarried person shall be bound to surrender an extent of land which would be in excess of the ceiling area on such calculation, or where such family or person does not own or hold such extent of land, the entire land owned or held by the family or person, but nothing in this

Explanation shall affect the rights of the transferee under the transfer.

(2) Where a family or an adult unmarried person owns or holds land in excess of the ceiling area, the husband, or in his absence, the wife or in the absence of both, the guardian of the minor children or, as the case may be, the adult unmarried person shall, within a period of three months from the date notified under sub-section (1) of section 81 file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all the lands owned or held by the family or adult unmarried person, and indicating the lands proposed to be surrendered.

Explanation I.—Where lands owned or held by a family stand in the name of more than one member of the family, the identity of the land, the ownership or possession or both of which is to be surrendered, shall be indicated as far as practicable with the concurrence of all the members in whose names they stand.

Explanation II.—Where land to be surrendered is owned or held by two or more persons jointly, whether or not as members * * * of an institution or of a joint family, the identity of the same shall be indicated as far as practicable with the concurrence of all the persons who own or hold such land.

Explanation III.—Where a family or adult unmarried person owns or holds lands, including shares in the lands owned or held by a co-operative society, in excess of the ceiling area, the excess lands to be surrendered shall be lands other than shares in the lands owned or held by the co-operative society.

(3) Where after the final settlement of claims for resumption of lands held by a family or an adult unmarried person as tenant, such family or person holds land in excess of the ceiling area, or

where after the purchase of the rights, title and interests of the landowner and the intermediary by

the cultivating tenant in respect of lands owned by a family or adult unmarried person, such family or person owns land in excess of the ceiling area,

such excess shall be surrendered by the person who is competent to do so within a period of three months from the date of the final settlement or purchase, as the case may be. At the time of the surrender, he shall file a statement before the Land Board containing the particulars specified in sub-section (2) of the lands held by him. The provisions of sub-section (2) shall, as far as may be, apply in regard to the calculation of the excess land and the procedure for the surrender of the same.

(4) On receipt of the statement under sub-section (2) or sub-section (3), the Land Board shall—

(a) cause the particulars mentioned in the statement to be verified;

(b) ascertain whether the family or person to which or to whom the statement relates, owns or holds any other lands; and

(c) determine the identity of the land to be surrendered.

(5) In determining the identity of the land, the Land Board shall, as far as practicable, accept the choice indicated under sub-section (2) or sub-section (3):

Provided that where in such determination the interests of other persons are also likely to be affected, the Land Board shall, except in cases where all the persons interested have agreed to the choice indicated, afford an opportunity to such other persons to be heard and pass suitable orders regarding the land to be surrendered.

(6) Where any person fails to file the statement specified under sub-section (2) or sub-section (3), the Land Board shall, after necessary enquiries, by order determine the extent and other particulars of the land the ownership or possession or both, of which is or are to be surrendered:

Provided that before such determination the Land Board shall give an opportunity to the persons interested in the land, to be heard.

(7) Where the Land Board determines the extent of the land to be surrendered by any person without hearing any person interested, such person may, within sixty days from the date of such determination, apply to the Land Board to set aside the order and if he satisfies the Land Board that he was prevented by any sufficient cause from appearing before the Land Board, it shall set aside the order and shall proceed under sub-section (4) or sub-section (6), as the case may be.

Explanation.—For the purposes of this section and section 84, “hold” with reference to land shall include “possess land under mortgage with possession.”

84. *Vesting of excess lands in Government.*—(1) On the determination of the extent and other particulars of the lands the ownership or possession or both of which is or are to be surrendered under section 83, the Land Board shall issue a notice to the person bound to surrender demanding the surrender, before a specified date, not being earlier than thirty days from the date of the notice, of the lands or the ownership of lands to such authority as may be specified therein and intimating that in case of default the ownership or possession or both, as the case may be, of the lands determined by the Land Board shall be assumed by the Government before a specified date.

(2) On receipt of such notice, such person shall make the surrender demanded, in such manner as may be prescribed.

(3) Where any person fails to make the surrender demanded, the Land Board may authorise any officer to take possession or assume ownership of the land in such manner as may be prescribed.

(4) Upon the surrender under sub-section (2) or the assumption under sub-section (3), the land or

the ownership or possession of the land shall, as the case may be, vest in the Government. Where in respect of any such land there is an intermediary the rights of the intermediary over that land shall stand extinguished.

85. *Excess land obtained by gift, etc., to be surrendered.*—(1) Where any person comes by any land after the date notified under sub-section (1) of section 81 on account of gift, purchase, mortgage with possession, lease, surrender or any other kind of transfer *inter-vivos* or by bequest or inheritance or otherwise and in consequence thereof, the total extent of land owned or held by the family of such person or by such person, if he is an unmarried adult, exceeds the ceiling area, such excess shall be surrendered to such authority as may be prescribed within six months of the date of his coming into ownership or possession.

(2) The provisions of sections 83 and 84 shall, as far as may be, apply to the surrender to, and vesting in the Government of the ownership or possession or both of lands under sub-section (1).

86. *Persons surrendering land entitled to compensation.*—(1) Where ownership or possession or both of land is surrendered by, or assumed from, a person under section 84 or section 85, such person shall be entitled to compensation. Where in respect of any such land, there is an intermediary, he shall also be entitled to compensation.

(2) The compensation payable to an owner for the surrender or assumption of ownership and possession of land shall be fifty-five per cent of the market value of the land and improvements, if any, thereon.

(3) The compensation payable to the landowner, intermediary, or cultivating tenant for the surrender or assumption of their rights shall be the portion of fifty-five per cent of the market value of the land and the improvements, if any, thereon that will fall to his share if such value were apportioned among the landowner, cultivating tenant and intermediary, if any, in respect of the land according to the following provisions:—

(i) the portion of the compensation for any building or other improvements shall be set apart to the person to whom such building or other improvement belongs;

(ii) ninety per cent of the portion of the compensation for the site of any homestead or hut in the occupation of a kudikidappukaran shall be deducted from the total amount of compensation;

(iii) the balance remaining after deducting the amounts referred to in clauses (i) and (ii) shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land immediately before the surrender.

Explanation.—“Profits derivable from the land” shall be deemed to be equal to, (i) in the case of landowner, the rent which he was entitled to get from the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord; and (iii) in the case of a cultivating tenant the difference between the net income and the rent payable by him; and the rent payable by the cultivating tenant and the intermediary for the purposes of this explanation shall be as calculated under the provisions of section 27.

(4) Where a mortgagee in possession surrenders possession of the land mortgaged to him,—

(i) where the ownership of the land mortgaged has been surrendered by the owner of the land, the mortgagee shall be treated as a holder of an encumbrance in respect of the land and the encumbrance shall be discharged as provided in sections 89 and 90;

(ii) in other cases, the Government shall pay to the mortgagee the amount to which he would have been entitled under clause (i) if the ownership of the land mortgaged had been surrendered to the Government, and hold the land as mortgagee with possession with all the rights and liabilities of the mortgagee.

87. *Payment of advance towards compensation.*— Pending the determination of the amount of compensation payable to any person under this section, it shall be competent for the Land Board to pay such amount as it considers proper to such person as part payment of the compensation on taking proper security in case it is found that he is entitled to such amount. The amount so paid shall be deducted from the compensation payable to such person and the Land Board shall pay to him only the balance.

88. *Preparation of compensation roll.*—(1) As soon as may be after the Land Board has determined the extent and particulars of any land, the ownership or possession of both of which is or are to be surrendered, the Land Board shall, forwarding the necessary documents, direct the Land Tribunal to prepare and submit to the Land Board a compensation roll showing—

(a) the description of the land or interests in the land surrendered or assumed;

(b) the name and address of the person surrendering the same or from whom the same was assumed;

(c) the names and addresses of the landowner, intermediary and the cultivating tenant and the amount of compensation payable to each;

(d) the names of the holders of the encumbrances (including mortgagees who have surrendered possession of excess lands), maintenance or alimony and the value of the encumbrance or of the claims for maintenance or alimony; and

(e) such other particulars as may be prescribed.

(2) On receipt of the direction under sub-section (1), the Land Tribunal shall, after giving an opportunity to all persons interested to be heard and after making such inquiry as it considers necessary, prepare the draft compensation roll and furnish copies thereof to the persons interested.

(3) Where any land, the ownership or possession or both of which is or are surrendered to, or

assumed by the Government, forms part of the security for an encumbrance, maintenance or alimony, the Land Tribunal shall for the purpose of discharging the same apportion the entire encumbrance, maintenance or alimony between the land surrendered to, or assumed by, the Government and the portion of the security remaining, in proportion to the values of the two portions of the security.

(4) Within two weeks after the expiry of the period of appeal from the orders of the Land Tribunal prescribed under section 99, or where there has been an appeal, within two weeks after the disposal of the same, the Land Tribunal shall prepare a final compensation roll showing the particulars mentioned in sub-section (1). A copy of the final compensation roll so prepared shall be forwarded to the Land Board by the Land Tribunal.

89. *Payment of compensation.*—(1) On receipt of the compensation roll under section 86, the Land Board shall pay the compensation to the persons entitled thereto subject to the provisions of sub-section (2).

(2) Where the land or the ownership or possession of land which has been surrendered, is subject to any encumbrance, maintenance or alimony, the value of the encumbrance, maintenance or alimony shall be deducted from the compensation amount payable to the person liable for such encumbrance, maintenance, or alimony. If the total amount of such encumbrance, maintenance or alimony is more than the amount of compensation, the compensation amount shall be distributed to the holders of the encumbrance and the persons entitled to the maintenance or alimony in the order of priority and on such payment, the liabilities in respect of the encumbrance, maintenance or alimony shall stand extinguished:

Provided that where the encumbrance is a mortgage or charge created for securing a loan advanced by the Government, a co-operative society including a land mortgage bank registered or deemed to be registered under the Co-operative Societies Act for the time

being in force, the Kerala Financial Corporation, the Kerala Industrial Development Corporation, the State Small Industries Corporation or the Rubber Board or in respect of a debt under an over-draft agreement with a banking company as defined in the Banking Companies Act, 1949, nothing in this sub-section shall affect the right of the Government, the co-operative society, the Corporation, the Rubber Board or the banking company as the case may be, to proceed against the other assets or the person of the debtor for the balance outstanding, if any.

(3) The Land Board shall also pay the mortgage amount payable to a mortgagee under clause (ii) of sub-section (4) of section 86.

90. *Payment of compensation, amount of encumbrance, maintenance or alimony.*—(1) The compensation or the amount of encumbrance, as the case may be, shall be paid either in cash or in negotiable bonds redeemable in sixteen years and carrying interest at the rate of $4\frac{1}{2}$ per cent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under section 84, or section 85, or partly in cash and partly in such bonds in such manner as may be prescribed.

(2) The provisions of sub-sections (7), (8) and (9) of section 61 shall, as far as may be, apply in regard to the payment of compensation and other amounts under this section.

91. *Payment of compensation to be full discharge.*—The payment of compensation in the manner specified in section 90 shall be a full discharge of the liability for payment of compensation and no further claim therefor shall lie.

92. *Application for assignment of land.*—Any person who does not possess any land or possesses only less than five * * * acres in extent may apply to the Land Board for assignment on registry of lands to him.

93. *Assignment of lands by Land Board.*—(1) The Land Board shall, after reserving in each village the lands necessary for public purposes, assign on registry the remaining lands vested in the Government under section 84 or section 85 as specified below:—

(i) the holdings in which there are kudiki-dappukars shall, as far as possible, be assigned to such kudikidappukars;

(ii) out of the remaining area available for assignment—

(a) fifty per cent shall be assigned to the landless agricultural labourers of which one-half shall be assigned to the landless agricultural labourers belonging to Scheduled Castes or Scheduled Tribes residing in the same village or adjacent villages;

(b) twenty-five per cent shall be assigned to small holders and other landlords who are not entitled to resume any land;

(c) the remaining twenty-five per cent shall be assigned to the cultivators who do not possess more than 5 * * acres in extent:

Provided that in assigning lands under this sub-section to the persons specified in sub-clause (a), (b), or (c), first preference shall be given to ex-servicemen belonging to the respective classes, and subject as above, preference shall be given to co-operative societies formed by persons specified in the respective sub-clauses:

Provided further that where the excess land that is available for assignment is either kayal or kole nilam, such land shall be assigned only to co-operative societies formed by landless agricultural labourers.

Explanation.—For the purposes of this sub-section, a kudikidappukaran or a tenant of a kudiyiruppu shall be deemed to be a landless agricultural labourer if he does not possess any other land.

(2) The Land Board shall not assign to any person more than 5 * * acres in extent of land.

(3) Where a person possesses any land, only so much land as will make the extent of land in his possession five * * acres in extent shall be assigned to him.

94. *Payment of purchase price.*—(1) The purchase price of the land assigned on registry under section 93 shall be an amount equal to fifty-five per cent of the market value of the land and improvements, if any, thereon, and shall be payable either in lump or in sixteen equal annual instalments. The assignment shall be made on payment of the purchase price either in lump or the first instalment thereof.

(2) Where the purchase price is payable in instalments, the amount outstanding after payment of each instalment shall bear interest at the rate of $4\frac{1}{2}$ per cent per annum.

(3) All amounts due from an assignee shall be a first charge on the land assigned and shall be recoverable as arrears of land revenue under the Revenue Recovery Act for the time being in force.

95. *Management of surrendered lands till assignment.*—The Land Board shall, subject to such rules as may be made by the Government in this behalf, manage the lands surrendered to them until they are assigned under section 93, by making arrangements for their cultivation and protection.

CHAPTER IV
MISCELLANEOUS

96. *Constitution of Land Tribunal.*—The Government may, by notification in the Gazette, constitute for any area or for any class of cases specified therein a Land Tribunal consisting of a sole member who shall be a Judicial Officer of the rank of a Munsiff, for the purpose of performing the functions of a Land Tribunal under this Act.

97. *Constitution of Land Board.*—(1) The Government shall constitute a Land Board for the whole State for performing the functions of the Land Board under this Act. The Board shall consist of a sole member, who shall be the Head of the Land Revenue Department, or of three members.

(2) Where the Board consists of three members, the members shall be—

(i) the Head of the Land Revenue Department who shall be the Chairman;

(ii) a judicial officer not below the rank of a District Judge nominated by the Government in consultation with the High Court;

(iii) an officer of the Government nominated by the Government.

(3) (a) The functions of the Board, where it consists of three members, may be exercised by a Bench consisting of all the members of the Board or by a Bench consisting of two members constituted by the Chairman or in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member.

(b) Where any matter is heard by a Bench consisting of all the three members of the Board and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where any matter is heard by a Bench consisting of two members and the members are divided in their opinion on any point, they shall state the point upon which they differ and the matter shall then be heard upon that point only by the third

member and such point shall be decided according to the opinion of the third member.

98. *Powers of the Land Board and the Land Tribunal.*—(1) The Land Board and the Land Tribunal constituted under this Act shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation; and
- (e) any other matter which may be prescribed.

(2) The Land Board shall have superintendence over all the Land Tribunals, and the Land Board may—

- (a) call for returns from the Land Tribunals;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of the Land Tribunals;
- (c) prescribe forms in which books, entries and accounts shall be kept by the Land Tribunals; and
- (d) on the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard or of its own motion, without such notice, transfer any application or other proceeding pending before any Land Tribunal to any other Land Tribunal or retransfer the same for trial or disposal to the Land Tribunal from which it was originally transferred.

(3) Where in any proceeding before the Land Tribunal a question arises as to whether a person is or is not a tenant, it shall be competent for the Land Tribunal to decide the question.

(4) If, for the purposes of sub-clause (b) of clause (44) of section 2, any question arises as to whether any land is in the vicinity or within the boundaries of the area cultivated with the crops referred to in the said sub-clause, or whether it is reserved and fit for the expansion of such cultivation, the question shall be decided by the Land Board, and the decision of the Land Board shall be final.

99. *Appeals.*—(1) Any person aggrieved by the orders of the Land Tribunal under sub-section (2) of section 12, section 22, section 23, section 30, sub-section (3) or sub-section (4) of section 46, sub-section (3) of section 47, section 55 sub-section (4) of section 64 or section 88 may appeal against such order within such time as may be prescribed to the Subordinate Judge having jurisdiction over the area in which the holding is situate. He shall hear the appeal as a *persona designata* and his decision thereon shall be final subject to the provisions of section 100.

(2) The Subordinate Judge shall have power to pass interlocutory orders or to remand any case to the Land Tribunal for reconsideration in accordance with his directions.

(3) Where there has been any modification in appeal from the orders of the Land Tribunal, such orders shall be modified accordingly.

100. *Revision by High Court.*—(1) Any person aggrieved by—

- (i) any final order passed in an appeal against the order of the Land Tribunal; or
- (ii) any final order passed by the Land Board under this Act,

may, within such time as may be prescribed, prefer a petition to the High Court against the order on the ground that the Appellate Authority or the Land Board, as the case may be, has either decided erroneously, or failed to decide any question of law.

(2) The High Court may, after giving an opportunity to the parties to be heard, pass such orders as it deems fit * * * and the

orders of the Appellate Authority or the Land Board, as the case may be, shall, wherever necessary, be modified accordingly.

101. *Proceedings by or against joint families etc.*—(1) Where in any proceeding under this Act, a joint family is a party, it shall be sufficient to implead the manager, karanavan or yajaman and the seniormost male member of such family and, in the case of a Marumakkathayam or Aliyasantana family, also the karanavan or yajaman of each tavazhi or kavaru, but any other member of the family shall have the right to get himself impleaded as a party.

(2) Where any such proceeding relates to any property or part thereof under the management of a receiver appointed by a court, it shall be sufficient to implead the receiver as party to the proceeding.

102. *Authorised officer empowered to obtain information from persons.*—(1) For the purpose of carrying into effect the provisions of this Act, any officer not below the rank of a Tahsildar authorised by the Government in this behalf (hereinafter in this section referred to as the authorised officer) may, by notice, require any person to furnish any information relating to the extent of land held by such person, the number of members of the family, if any, of such person, and such other particulars as may be prescribed. The person aforesaid shall furnish the information to such officer within such time as may be specified in the notice or within such further time not exceeding thirty days as the authorised officer may, in his discretion, allow.

(2) (a) Where any person on whom notice under sub-section (1) has been served fails to furnish the information within the time specified in that notice or within the further time allowed by the authorised officer under sub-section (1), the authorised officer may obtain, in such manner as may be prescribed, the necessary information either by himself or through such agency as he thinks fit.

(b) The authorised officer shall, as soon as may be, after obtaining the information under clause

(a), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

103. *Special provisions relating to leases for commercial or industrial purposes.*—(1) Notwithstanding anything contained in this Act, or in any other law, or in any contract, or order or decree of court, where, on any land leased for commercial or industrial purpose the lessee has constructed buildings for such commercial or industrial purpose before the 18th December 1957, he shall not be liable to be evicted from such land, but shall be liable to pay rent under the contract of tenancy. Such rent shall be liable to be varied every twelve years on the motion of the lessor or the lessee, in such manner as may be prescribed.

(2) If, between the 18th December, 1957 and the date of commencement of this Act, any decree or order of court has been executed and any person dispossessed by delivery, such person shall, on application before the Land Tribunal, be entitled to restoration of possession:

Provided that before restoration, such person shall be liable to pay—

(i) the compensation paid by the landlord for any improvements in the land and subsisting at the time of restoration;

(ii) the compensation for any improvements effected subsequent to the delivery:

Provided further that he shall not be entitled to restoration if the property has passed on to the possession of a *bona fide* transferee for value.

104. *Costs.*—(1) Subject to the provisions of this Act, the costs of and incident to all proceedings before the Land Tribunal shall be in its discretion and it shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purposes aforesaid. The fact that any proceeding

before the Land Tribunal is without jurisdiction shall be no bar to the exercise of such powers.

(2) An order passed by the Land Tribunal in exercise of the powers vested in it under sub-section (1) may be executed through the court as if the order were a decree passed by it.

105. *Application of the provisions of section 5 of the Indian Limitation Act.*—Unless otherwise specifically provided in this Act, the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to all proceedings under this Act.

106. *Constitution of Agriculturist Rehabilitation Fund.*—A fund called the Agriculturist Rehabilitation Fund may be constituted by the Government to be administered by the Revenue Department, in such manner as may be prescribed. It shall consist of grants or loans by or from the State Government or the Central Government and other moneys, if any, raised by the Government in accordance with the rules, made by the Government in this behalf. The fund shall be utilised for rendering help by way of loan, grant or otherwise to persons affected by this Act who are eligible for the same in accordance with the rules made by the Government.

107. *Special provisions for application of the Act.*—
(1) If any difficulty arises in the application of the provisions of this Act to any area on account of local variations or difference in nomenclature between the tenures prevailing in that area (by whatever name such tenures may be known) and the corresponding tenures prevailing in the remaining part of the State, the Government may, subject to the provisions of sub-section (2), by notification in the Gazette, direct that the said provisions shall apply to the aforesaid area subject to such adaptations, exceptions and modifications as may be specified in this behalf in such notification.

(2) A draft of the notification proposed to be issued under sub-section (1) shall be laid before the Legislative Assembly for a period of ten days and the Legislative Assembly may approve the draft with

or without modification or disapprove the draft during the period in which it is so laid. On approval of the draft by the Legislative Assembly, the Government shall publish the notification as approved, in the Gazette. If the Legislative Assembly does not—

- (i) approve with or without modification; or
- (ii) disapprove,

the said draft during the period aforesaid it shall be lawful for the Government to publish the notification in the Gazette in terms of the draft.

108. *Rent under certain contracts of tenancy not to be affected.*—Notwithstanding anything contained in sub-section (2) of section 5 of the Cochin Verumpattamdars Act, VIII of 1118, the pattam payable by a Verumpattamdar, to whom the provisions of the said sub-section applied, for the period subsequent to the first day of Chingom, 1124 till the date of commencement of this Act, shall only be the amount payable immediately before the commencement of the said Verumpattamdars Act, whether or not, such contract was renewed after such commencement.

109. *Apportionment of land value in cases of acquisition.*—(1) where the land comprised in a holding is acquired under the law for the time being in force providing for the compulsory acquisition of land for public purposes, the compensation awarded under such law in respect of the land acquired shall be apportioned among the land-owner, intermediaries, cultivating tenant and the kudikidappukaran in the manner specified in sub-sections (2) to (4).

(2) The compensation for any building or other improvements shall be awarded to the person entitled to such building or other improvements.

(3) The kudikidappukaran shall be entitled to ninety per cent of the value of the land occupied by his homestead or hut.

(4) The balance remaining after making the payments referred to in sub-sections (2) and (3) shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion

to the profits derivable by them from the land acquired immediately before such acquisition.

Explanation.—“Profits derivable from the land” shall be deemed to be equal to (i) in the case of landowner, the rent which he was entitled to get from the tenant holding immediately under him, (ii) in the case of an intermediary the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord, and (iii) in the case of a cultivating tenant the difference between the net income and the rent payable by him; and the rent payable by the cultivating tenant and the intermediary for the purpose of this explanation shall be as calculated under the provisions of section 27.

(5) Where the land acquired is comprised in the holding of a kudiyan, as defined in the Travancore Janmi and Kudiyan Act of 1071, or of a kanam tenant as defined in the Kanam Tenancy Act, 1955, the compensation amount to be apportioned under sub-sections (2) to (4) shall be the share of the Kudiyan or the kanam tenant as ascertained under section 45 of the Travancore Janmi and Kudiyan Act of 1071, or section 48 of the Kanam Tenancy Act, 1955, as the case may be.

110. *Amendments to certain enactments.*—

(1) Sections 7 and 9 of the Devaswom Verumpattamdars (Settlement) Proclamation XXIII of 1118, shall be omitted.

(2) In Explanation I to section 45 of the Travancore Janmi and Kudiyan Act of 1071, for the words “Sixteen and two-third times” the words “eight and one-third times” shall be substituted.

(3) In Explanation I to section 48 of the Kanam Tenancy Act, 1955, for the words “Sixteen and two-third times” the words “eight and one-third times” shall be substituted.

111. *Appearance before the Land Tribunal or the Land Board.*—(1) Any appearance, application or act in or to any Land Tribunal or Land Board required or authorised by law to be made or done by

a party in such Land Tribunal or Land Board, may be made or done by the party in person or by his recognised agent or by a pleader appearing, applying or acting as the case may be on his behalf:

Provided that any such appearance shall, if the Land Tribunal or Land Board so directs, be made by the party in person.

(2) The recognised agents of parties by whom such appearance, application and act may be made or done are persons holding powers of attorney authorising them to make and do such appearance, application and act on behalf of such parties.

112. *Court fees.*—Notwithstanding anything contained in the Kerala Court Fees and Suits Valuation Act, 1959, every application or appeal made under this Act to the Land Tribunal or the Land Board shall bear court-fee stamp of such value as may be prescribed.

113. *Members of the Land Board and the Land Tribunal to be deemed public servants.*—The members of the Land Board and the Land Tribunal and any officer appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

114. *Penalty for failure to furnish return.*—(1) If any person who is under an obligation to furnish a return or information under this Act refuses or wilfully fails to furnish the return or information within the time specified for the purpose, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any person who, after having been convicted under sub-section (1) continues to refuse or to wilfully fail to furnish the return or information, he shall be punishable with fine which may extend to fifty rupees for each day after the previous date of conviction during which he continued so to offend.

115. *Penalty for furnishing false returns or information.*—If any person who is under an obligation to furnish any return or information furnishes any

return or information which he knows or has reason to believe to be false, he shall be punishable with fine which may extend to one thousand rupees.

116. *Penalty for making false declaration.*—(1) After the date notified under sub-section (1) of section 81, no document relating to any transfer of land shall be registered unless the transferee makes a declaration in such form as may be prescribed in writing (in duplicate) as to the total extent of land held by him. The Registering Officer shall forward a copy of the declaration to the officer authorised by Government for such action as may be necessary.

(2) If any person makes any declaration before the Registering Authority under sub-section (1) which he knows or has reason to believe to be false, he shall be punishable with fine not exceeding one thousand rupees.

117. *Penalty for contravention of any lawful order.*—If any person wilfully contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under any of the provisions of this Act, he shall be punishable with fine which may extend to five hundred rupees.

118. *Penalty for cutting trees or for removing any machinery, etc.*—Any person causing destruction, or damage to or removal of trees, buildings, machinery, plant, or apparatus, situated on any land indicated as lands to be surrendered under sub-section (2) of section 83 shall be punishable with imprisonment for a term which may extend to one year or with fine not exceeding one thousand rupees or with both.

119. *Cognizance of offences.*—(1) No court shall take cognizance of any offence punishable under this Act except on complaint in writing made by an officer authorised by the Government in this behalf.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

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

121. *Bar of jurisdiction of Courts.*—No order of the Land Tribunal or the Land Board under this Act shall be called in question in any court, except as provided in this Act.

122. *Act to override other laws, etc.*—The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or in any contract, express or implied, inconsistent with the provisions of this Act.

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

124. *Power to make rules.*—(1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:—

(a) the fees payable on applications or claims made before the Land Tribunal or the Land Board and the persons by whom and the period within which such fees shall be paid;

(b) the registers to be kept and maintained by the Land Tribunal and the Land Board and the particulars to be entered therein;

(c) the procedure to be followed in the preparation of compensation rolls;

(d) the filing of statements before the Land Tribunal and the Land Board;

(e) the procedure to be followed by the Land Tribunal and the Land Board;

(f) for the joint consideration by the Land Tribunal of two or more applications involving the same question;

(g) the assignment of lands by the Land Board under section 93;

(h) the management of land before assignment under section 95;

(i) any other matter which under this Act is to be or may be prescribed.

125. *Laying of rules and notifications in the Legislative Assembly.*—Every rule made under this Act and every notification issued under clause (a) of sub-section (1) or sub-section (3) of section 79 shall be laid as soon as may be after it is made or issued before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made, or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

126. *Limitation.*—In computing the period of limitation for the institution of suits or proceedings under this Act, the time during which such suits or proceedings were prohibited or stayed under any of the enactments repealed by this Act shall be excluded.

127. *Repeal and Savings.*—(1) (a) The Proclamation XVI of 1122 (Cochin), dated the 14th February 1947; the Proclamation VI of 1124 (Cochin), dated 12th January, 1949, the Kerala Ryotwari Tenants

and Kudikidappukars Protection Act, 1962 and the Kerala Tenants and Kudikidappukars Protection Act, 1963, are hereby repealed and all suits, appeals, revisions, reviews and proceedings in execution of decrees stayed by the said enactments may be disposed of by the courts in which they were pending at the commencement of this Act, in accordance with the provisions of this Act.

(b) The costs in respect of the suits, appeals, revisions, reviews and execution proceedings stayed by the enactments specified in clause (a) shall be in the discretion of the court.

(2) The following enactments as in force in any part of the State of Kerala are hereby repealed, namely:—

- (i) The Cochin Verumpattamdars Act, VIII of 1118.
- (ii) The Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955.
- (iii) The Malabar Tenancy Act, 1929.
- (iv) The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956.

(3) Notwithstanding the repeal of the enactments mentioned in sub-section (2),—

(a) any decree passed before the commencement of this Act for the eviction of a tenant from his holding pursuant to which eviction has not been effected may, on the application of the tenant or the landlord, be reopened and the matter may be disposed of in accordance with the provisions of this Act;

(b) any suit for restoration, filed under section 24 or section 26 or sub-section (3) of section 53 of the Malabar Tenancy Act, 1929 or any application for determination of fair rent made under section 16 of that Act or any application for fixation of fair rent made under section 9 of the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956, and pending disposal at the commencement of this Act shall be disposed of in accordance with the provisions of the said Acts as if those Acts had not been repealed;

- (c) (i) where the decree-holder, plaintiff, appellant or petitioner, as the case may be, is a person entitled to resumption of land under this Act he shall have the right to apply to the court to allow resumption of the holding or any part thereof to which he is entitled;
- (ii) the application under sub-clause (i) shall be made within one year from the commencement of this Act and shall contain a statement of facts in support of the claims of the applicant and also the names and addresses of all persons who have interest in the holding either as owner, lessee or kudikidappakaran;
- (iii) the court shall dispose of the application as if it were an application for resumption before the Land Tribunal under this Act;

(d) notwithstanding anything contained in section 11 of the Code of Civil Procedure, 1908, the right conferred on the decree-holder, plaintiff, appellant or petitioner, as the case may be, under sub-clause (i) of clause (c) shall not be deemed to take away or in any manner affect his right to apply for resumption under this Act

(4) (i) The Kerala Agrarian Relations Act, 1960, is hereby repealed:

(ii) Notwithstanding the repeal of the Kerala Agrarian Relations Act, 1960 (hereinafter referred to as the said Act),—

(a) all applications for determination of fair rent filed or purported to have been filed under the said Act, in which no orders determining the fair rent had been passed by the Land Tribunal, shall be deemed to have been filed under this Act and shall be disposed of according to the provisions of this Act

(b) in cases where, on applications for determination of fair rent filed or purported to have been filed under the said Act, the Land Tribunal had passed orders determining fair

rent under the said Act, but appeals or applications for revision in respect of such orders were pending before the competent authority or the time for preferring appeal or revision in respect of such orders had not expired at the time when the said Act was declared unconstitutional by the Supreme Court or the High Court or the proceedings under the said Act were stayed under the Kerala Tenants and Kudikidappukars Protection Ordinance, 1962, as the case may be, in their application to the land comprised in the holding, appeals or applications for revision shall be proceeded with, or the parties shall be entitled to file appeals or applications for revision, as the case may be, under the said Act, and such appeals and revisions shall be disposed of under the said Act, notwithstanding any judgment, decree or order of court declaring the said Act to be unconstitutional;

(c) in cases where orders determining fair rent have been passed or purported to have been passed under the said Act and such orders had become final, such orders shall be deemed to have been passed under this Act for purposes of payment of fair rent;

(d) notwithstanding anything contained in this Act, the fair rent determined under sub-clause (b) and the fair rent referred to in sub-clause (c) shall be the rent payable by the cultivating tenant but such fair rent shall not be taken as the basis for the determination of the purchase price under section 51, and the fair rent for the determination of purchase price shall be the fair rent determined under this Act;

(e) in computing the period of limitation for purposes of filing appeals or applications for revision from orders determining fair rent under sub-clause (b), the period between the date on which the said Act was declared unconstitutional or the proceedings under the said Act were stayed under the Kerala Tenants

and Kudikidappukars Protection Ordinance, 1962, as the case may be, in their application to the land comprising the holding, and the commencement of this Act shall be excluded.

(iii) Subject to the provisions of clause (ii), the said Act or the rules, notifications or orders made or issued thereunder, shall not be deemed to have conferred any right or imposed any liability on any person, as if the said Act had not been enacted.

SCHEDULE—I

[See section 2 (27)]

Kuttanad Area

ALLEPPEY DISTRICT

<i>Taluk</i>	<i>Village</i>	
1. Ambalapuzha	1. Prakkad	
	2. Ambalapuzha	
	3. Alleppey	
	4. Aryad South	
	5. Punnapra	
	2. Kuttanad	6. Pulincunnoo
		7. Chennamkari
		8. Kainakari
		9. Champakulam
		10. Nedumudy
11. Thakazhy		
12. Kozhimukku		
13. Thalavady		
14. Neelamperoor		
15. Veliyanad		
3. Shertallai	16. Muttar	
	17. Ramankari	
	18. Panavalli	
	19. Vayalar West	
	20. Vayalar East	
	21. Thuravoor South	
	22. Thuravoor North	
	23. Aroor	
	24. Thycattussery	
	4. Karthigapally	25. Pathiyoor
26. Cheppad		
27. Pallipad		
28. Haripad		
29. Veeyapuram		
30. Cheruthana		
31. Karuvatta		
5. Mavelikara		32. Thamarakulam
		33. Kannamangalam
		34. Thripoorunthura
	35. Chennithala	
	36. Mavelikara	
	37. Chunakara	
	38. Thazhakara	
	39. Noornad	
	40. Palamel	
	41. Pandalam South	
42. Thonaloor		

ALLEPPEY DISTRICT (Contd.)

<i>Taluk</i>	<i>Villages</i>
6. Thiruvalla	43. Kizhakumbhagom
	44. Kadapra
	45. Peringara
	46. Kavumbhagom
	47. Thiruvalla
7. Chengannoor	48. Cherianad
	49. Venmony
	50. Mannar
	51. Kurattisseri
	52. Puliyoor

KOTTAYAM DISTRICT

<i>Taluk</i>	<i>Villages</i>
8. Kottayam	53. Thiruvrappu
	54. Kottayam
	55. Nattakam
	56. Panachikkad
	57. Vijayapuram
	58. Aymanam
	59. Kumarakom
	60. Kaipuzha
	61. Onamthuruthu
	62. Puthuppally
9. Changanacherry	63. Kurichi
	64. Vazhappally West
	65. Vazhappally East
	66. Changanacherry
	67. Madappally
	68. Thrikodithanam
	69. Vakathanam
10. Vaikom	70. Naduvile
	71. Thalayazham
	72. Kallara
	73. Vechoor
	74. Manjoor
	75. Vadayar
	76. Kaduthuruthy

SCHEDULE—II
[See Section 2 (55)]
PART—I

Lands other than nilams

TRIVANDRUM DISTRICT

<i>Class of land</i>	<i>Standard acre</i>
1. Garden	1.50 acres
2. Dry land principally cultivated with cashew	2.00 "
3. Other dry land	4.00 "
4. Palliyal land	4.00 "
5. Rubber plantation	1.75 "
6. Tea plantation	0.75 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

QUILON DISTRICT

1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	2.00 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	1.75 "
6. Tea plantation	0.75 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

ALLEPPEY DISTRICT

1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	2.00 "
3. Other dry land	4.00 "
4. Palliyal land	4.00 "
5. Rubber plantation	1.75 "
6. Tea plantation	0.75 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

KOTTAYAM DISTRICT

1. Garden	1.25 acres
2. Dry land principally cultivated with cashew	1.75 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	1.75 "
6. Tea plantation	0.50 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

ERNAKULAM DISTRICT

<i>Class of land</i>	<i>Standard acres</i>
1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	1.75 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	2.25 "
6. Tea plantation	1.00 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

TRICHUR DISTRICT

1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	1.75 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	2.25 "
6. Tea plantation	0.50 "
7. Coffee plantation	1.00 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

PALGHAT DISTRICT

1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	2.25 "
3. Other dry land	4.00 "
4. Palliyal land	4.00 "
5. Rubber plantation	2.25 "
6. Tea plantation	0.50 "
7. Coffee plantation	0.75 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

KOZHIKODE DISTRICT

1. Garden	0.75 acres
2. Dry land principally cultivated with cashew	1.75 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	2.25 "
6. Tea plantation	0.50 "
7. Coffee plantation	0.75 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

CANNANORE DISTRICT

1. Garden	1.00 acres
2. Dry land principally cultivated with cashew	1.50 "
3. Other dry land	3.00 "
4. Palliyal land	3.00 "
5. Rubber plantation	2.25 "
6. Tea plantation	0.75 "
7. Coffee plantation	0.75 "
8. Cardamom plantation	1.50 "
9. Cinnamon plantation	1.50 "
10. Cocoa plantation	1.50 "

PART—II.

Standard acres of nilam.

<i>Sl. No.</i>	<i>Taluks</i>	<i>Double crop nilam (acre)</i>	<i>Single crop nilam (acre)</i>
1	Neyyattinkara Trivandrum Nedumangad Chirayinkil	1.00	2.00
2	Quilon Kottarakkara Kunnathur Pathanapuram Pathanamthitta	1.25	2.00
3	Karunagappally Karthigappally Mavelikara	1.25	2.00
4	Chengannur Thiruvalla Kuttanad	1.50	2.00
5	Ambalapuzha Shertallai	2.00	3.00
6	Changanacherry Kanjirappally Peermade Kottayam Vaikom Meenachil Devicolam Udumbanchola	1.50	2.50
7	Thodupuzha Muvattupuzha Cochin Kanayannur	1.25	2.50
8	Kunnathunad Alwaye Parur	1.75	3.00
9	Cranganore Mukundapuram Trichur Thalappilly	1.75	3.00

<i>Sl. No.</i>	<i>Taluks</i>	<i>Double crop nilam (acre)</i>	<i>Single crop nilam (acre)</i>
10	Chittur Alathur Palghat	1.00	2.00
11	Ottappalam Perintalmanna Ernad	1.25	2.50
12	Chowghat Ponnani Tirur	2.00	3.00
13	Kozhikode Quilandy Badagara	2.00	4.00
14	S. Wynaad N. Wynaad	2.00	3.00
15	Tellicherry Cannanore Taliparamba Hosdrug Kasaragod	1.75	4.00

SCHEDULE III
(See section 27)
Rates of fair rent

<i>Sl. No.</i>	<i>Class of land</i>	<i>Rate of fair rent</i>
(1)	(2)	(3)
1	Nilams—	
	(i) Land converted into nilam by tenant's labour not falling under items (v), (vi) and (vii)	1/8th of the gross paddy produce.
	(ii) Other nilam not falling under items (v), (vi) and (vii)	1/4th of the gross paddy produce.
	(iii) Kole land	1/6th of the gross paddy produce.
	(iv) Land not being Karinilam cultivated on the Kaipad system	1/6th of the gross paddy produce { For the districts of Cannanore, Ernakulam, Alleppey and Kottayam. No such land in other districts
	(v) Karinilam	
	(a) Converted into wet by tenant's labour	1/9th of the gross paddy produce. { For the districts of Kottayam, Alleppey and Ernakulam
	(b) Other Karinilam	1/5th of the gross paddy produce { No such land in other districts
	(vi) Nilam in the North Wynaad and South Wynaad taluks—	
	(a) Converted by tenant's labour	1/20th of the gross paddy produce
	(b) Other nilam	1/12th of the gross paddy produce

<i>Sl. No;</i> (1)	<i>Class of land</i> (2)	<i>Rate of fair rent</i> (3)
(vii)	Nilam in the Devicolam, Peermade and Udumbanchola taluks and the Attappady valley—	
	(a) Converted by tenant's labour	1/16th of the gross paddy produce
	(b) Other wet land	1/8th of the gross paddy produce
(viii)	Nilam where fishing is carried on for part of the year	Aggregate of rent fixed as for nilam and 1/8th of the gross annual income derived from fishing in such manner as may be prescribed
(ix)	Nilam not used for paddy cultivation <u>(but not cultivated with sugar cane)</u>	Rent that would have been payable had the land been used for cultivation of paddy
2	Garden—	
(i)	Cocoanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/10th of the gross cocoanut produce
(ii)	Cocoanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/3rd of the gross cocoanut produce
(iii)	Arecanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/10th of the gross arecanut produce

<i>Sl. No.</i> (1)	<i>Class of land</i> (2)	<i>Rate of fair rent</i> (3)
	(iv) Arecanut trees in respect of which the landlord is <i>not</i> bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/4th of the gross arecanut produce
	(v) Pepper-vines in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/8th of the gross pepper produce
	(vi) Pepper-vines in respect of which the landlord is <i>not</i> bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/4th of the gross pepper produce
3	Dry land	1/8th of the gross produce of the crop grown on the land or <u>Rs. 4 per acre,</u> whichever is higher
4	Palliyal lan	1/8th of the gross produce of the crop grown on the land or <u>Rs. 4 per acre,</u> whichever is higher
5.	Land under Punam or Kumri cultivation	Rs. 3 per acre
6.	<u>Land under sugarcane cultivation</u>	<u>1/4th of the gross sugarcane produce</u>
7.	Land not falling under any of the above items	Contract rent

SCHEDULE—IV

(See section 79(1)(j))

Kayal Padasekharams in Kuttanad area

District: ALLEPPEY

Taluk : KUTTANAD.

Taluk :	Village	Name of Kayal	Approximate extent			
			Acres	Cents		
1. Pulincunnu		1. 'D' Block Kayal	1800	00		
		2. Madathi Kayal	385	15		
		3. Padinjare Venattukari	99	86		
		4. Mathi Kayal	713	05		
		5. Sreemoolamangalam Kayal	590	00		
		2. Chennamkary		6. Raja Ramapuram Kayal	769	29
				7. Pallithanam Kayal	269	02
				8. Cherukara Kayal	309	80
				9. Mangalam Kayal	843	59
				10. E. Block Kayal	2336	00
				11. H. Block Kayal	1396	00
				12. I. Block Kayal	351	60
				13. K. L. Block Kayal	827	31
		3. Kainakary		14. 'R' Block Kayal	1425	99
				15. S. Block Kayal	584	00
				16. T. Block Kayal	315	00
				17. Q. Block Kayal	716	60
				18. C. Block Kayal	647	30
				19. Cherukali Kayal	251	55
				20. Arupanku Kayal	486	03
				21. Paruthivalavu Kayal	370	58
				22. Pandarakkalam Kayal	152	24
				23. Punathuram Kayal	103	61

Taluk : AMBALAPUZHA:

1. Alleppey	24. Kakka Kayal	200	00
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District : KOTTAYAM

Taluk : KOTTAYAM

1. Nattakom and Thiruvvarpu	25. 'F' Block Kayal	713	24	
2. Kumarakom and Thiruvvarpu	26. M. N. Block Kayal	473	65	
3. Kumarakom	27. Seminari Kayal	423	66	
	28. Thumbe Kayal	90	40	
	29. Roopatha Kayal	213	24	
	30. Karavattu Kayal	22	90	
	31. Vadakke Kochumada	22	73	
	32. Nalupanku Kayal	52	52	
	33. Krishna Vilasom Kayal	25	00	
	34. Konchumada Thundiil Kayal	26	13	
	35. Thekke Conchumada Kayal	46	78	
	36. Vilakkumaram Kayal	81	69	
	37. Pazhaya Kayal	42	94	
	38. Mathruka Kayal	18	88	
	4. Thiruvvarpu	39. J. Block Kayal	1200	00
	5. Aimanom	40. Vatta Kayal	336	45
41. Mali Kayal		103	00	
42. Oloran Kayal		47	98	
6. Kaipuzha	43. Kelakkary Vatta Kayal	295	29	
	44. Anthony Kayal	69	15	
7. Kaipuzha and Vechoor	45. Kaipuzha Vechoor Kayal	646	00	

Legislature Secretariat, Trivandrum,

21st October 1963

D. TIRUMALAI,

Secretary.