



GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act I of 1954

**The West Bengal Estates Acquisition
Act, 1953.**

(As modified up to the 1st January, 1999.)

STATE MENT OF REPEALS AND AMENDMENTS.

REPEALED

Nil.

West Ben. Act XII of 1954.
West Ben. Act XXVIII of 1954
West Ben. Act XXXV of 1955.
West Ben. Act IV of 1957.
West Ben. Act XXV of 1957.
West Ben. Act VI of 1958.
West Ben. Act XXV of 1958.
West Ben. Act XVII of 1960.
West Ben. Act IX of 1961.
West Ben. Act XIX of 1961
West Ben. Act XXII of 1963.
West Ben. Act XL of 1963.
West Ben. Act XXII of 1964.
West Ben. Act XIV of 1966.
West Ben. Act IX of 1967.
West Ben. Act XXXI of 1969.
West Ben. Act I of 19743.
West Ben. Act XXXIII of 1973.
West Ben. Act XXI of 1975.
West Ben. Act XXXVI of 1977.
West Ben. Act XXII of 1978.
West Ben. Act XX of 1982.
West Ben. Act XI of 1987.
West Ben. Act XXVIII of 1992.
West Ben. Act XX of 1997.

AMENDED

In reprinting this Act,--

- (1) amendments have been incorporated in their proper places with explanatory foot-notes;
and
- (2) certain further foot-notes have been added for convenience of reference.

West Bengal Act I of 1954
THE WEST BENGAL ESTATES ACQUISITION ACT, 1953.

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**THE WEST BENGAL ESTATES ACQUISITION
ACT, 1953²***(As modified up to the 1st January , 1999.)**[12th February , 1954.]*

An Act to provide for the State acquisition of estates, of rights of intermediaries therein and of certain Rights of raiyats and under raiyats ³ [and of the rights of certain persons in lands comprised in estates.]

It is hereby enacted as follows:-

**CHAPTER I.
Preliminary.**

Short title
And extent.

1. (1) This Act may be called the West Bengal Estates Acquisition Act, 1953.

West Ben. Act
XXXIII of 1951.

(2) It extends to the whole of West Bengal except the areas described in Schedule I of the Calcutta Municipal Act, 1951, as deemed to have been amended Under section 594 of that Act.

¹In terms of the provisions of sub-section (3) of section 3 read with Schedule III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (West Ben. Act XIX of 1958), this Act shall not extend to, or force in, the territories transferred from the State of Bihar to the State of West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

This Act extended to Chandernagore with effect from the appointed date under section 8 of the Chandernagore (Assimilation of Laws) Act, 1955 (West Ben. Act IV of 1956).

²LEGISLATIVE PAPERS.--- For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, dated the 5th May, 1953, Part IV A, page 609; for Report of the Joint Select Committee, see the Calcutta Gazette, Extraordinary, dated the 12th November, 1953 , Part IV A< pages 1275 – 1314; for the proceedings of the West Bengal Legislative Assembly, see the Official Report of the West Bengal Legislative Assembly, Vol. VII, No. 3, pages 1047, 1110-1147, Vol.VIII, pages 95-135,178-218, 433-466, 486-501,529-52, 577-648,684-756,775-846,890-952,996-1102; and for the proceedings of the West Bengal Legislative Council, see the Official Report of the West Bengal Legislative Council, Vol, III, pages 194-252 and 258-316.

³These words within the square brackets were inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

(Chapter I. Preliminary.--- Section 2.)

Definitions.

2. In this unless there is anything repugnant in the subject or context,-----

- (a) “agricultural year” means the Bengali year commencing on the first day of Baisakh.
- (b) “agricultural land” means land ordinarily used for purposes of agriculture or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being;
- (c) “charitable purpose” includes the relief of the poor, medical relief or the advancement of education or of any other object of general public utility.
- (d) “Collector” means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of the Collector under this Act;
- (e) “date of vesting” means the date mentioned in the notification under sub-section (1) of section 4;
- (f) “estate” or “tenure” includes part of an estate or part of a tenure;

¹(ff) * * * * *

(g) “homestead” means a dwelling house together with ----

any courtyard, compound, garden, out-house, place of worship, family, grave-yard, library, office, guest-house, tanks, wells privies, latrines, drains and boundary walls annexed to or appertaining to such dwelling house ;

(h) “incumbrance” in relation to estates and rights of intermediaries therein does not include the rights of a raiyat or of an under-raiyat or of a non-agricultural tenant² but shall, except in the case of land allowed to be retained by an intermediary under the provisions of section 6, include all rights or interests of whatever nature, belonging to intermediaries or other persons, which relate to lands comprised in estates or to the produce thereof;

¹Clause (ff), which was inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955), was omitted with retrospective effect by s.2(1) of the West Bengal Acquisition (Amendment) Act 1957 (West Ben Act IV of 1957).

²These words within the square brackets were inserted with retrospective effect by s. 2(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957)

(Chapter 1. ---Peliminary .--- Section 2.)

¹(i) “intermediary” means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a raiyat or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and a sub-lessee;

(j) “non-agricultural land” means land other than agricultural land ²[or other than land comprised in a forest];

(k) “non –agricultural tenant” means a tenant on non-agricultural land who holds under a proprietor, a tenure-holder ³[, a service tenure-holder] or an under –tenure-holder;

(l) “notified area” means a district or part of a district in respect of which a notification has been duly published under section 4;

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

(n) “religious purpose” means a purpose connected with religious worship, teaching or service or any performance of religious rites;

(o) “rent” means whatever is lawfully payable or deliverable in money or kind or both, by a tenant to his landlord, on account of the use or occupation of the land held by the tenant and includes also money recoverable under any enactment for the time being in force as if it was rent;

VIII of 1885.

(p) expressions used in this Act and not otherwise defined have in relation to the areas to which the Bengal Tenancy Act, 1885, applies, the same meaning as in that Act and in relation to other areas meaning as similar thereto as the existing law relating to land tenures applying to such areas, permits.

¹Clause (i) was substituted for the original clause with retrospective effect by s.2(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²These words within the square brackets were inserted with retrospective effect by s.2(b) of the West Bengal Estates Acquisition (Second amendment) Act, 1957 (West Ben. Act XXV of 1957).

³These words within the square brackets were inserted with retrospective effect by s.2 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

(Chapter I. Preliminary. – Section 3. Chapter II. Acquisition of estates and of the rights of intermediaries therein . –Section 4.)

Act override
Other laws etc.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary.

¹Provided that nothing in this Act shall apply to any land held by a Corporation, not being a local authority or a company, established by or under any law for the time being in force :

¹Provided further that nothing in this Act shall affect any land possession of which was taken by the state Government ²[before the date mentioned in the notification issued under section 4,] in furtherance of any proposal for acquiring such land , whether any formal proceedings for such acquisition such were started or not, and proceedings for acquisition of such land may be continued or commenced as if this Act has not been passed.

CHAPTER II.

Acquisition of estates and of the rights of intermediaries therein.

Notification vesting
Estates and rights of
intermediaries

4. (1) The State Government may from time to time by notification declare that with effect from the date mentioned in the notification , all estates. And the rights of every intermediary in each such estate situated in any district or part of a district specified in the notification , shall vest in the state free from all incumbrances.
- (2) The date mentioned in every such notification shall be the commencement of an agricultural year; and the notification shall be issued so as to ensure that the whole area to which this Act extends vests in the state on or before the 1st day of Baisakh of the Bengali year 1362.
- (3) Every such notification shall be published in the first instance, in at least two issues of each of two newspapers (one of which must be in the Bengal Language) circulating in West Bengal and also by affixing at each police-station and sub-registry office within the district or part of the district, specified in the notification and by beat of drums and in any other manner, if nay , as may be prescribed.
- (4) When the State Government is satisfied that the notification has been published in the first instance as required under sub-section (3), it shall issue the notification in the *Official Gazette*.

¹These provisos were added with retrospective effect by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

²These words and figure within the square brackets were substituted with retrospective effect for the words and figure “before the issue of a notification under section 4,” by s.2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.—Section 5).

(5) The publication of the notification in the *Official Gazette* shall be conclusive evidence that all requirements relating to publication in the first instance as mentioned in sub-section (3) have been complied with and also of the due publication of the notification and of notice to all persons affected by the notification.

¹(6) Notwithstanding anything contained in the foregoing sub-sections, an intermediary may, at any time before the 15th day of February, 1955, apply to the State Government to have all his estates, tenures, under-tenures and other rights as intermediary, to be vested in the state and the State Government may, after considering the facts and circumstances of the case, if it thinks fit, make an order granting the application. Upon the order being made, all such estates, tenures, under-tenures and rights of the intermediary, shall vest in the State Government on and from the date of the order, free from all incumbrances (other than the rights of subordinate intermediaries, if any) and the provisions of this Act, except the foregoing sub-sections and clauses (a) (b) of section 5, shall with necessary modifications, apply as if, in relation to such estates, tenures, under-tenures and rights of the intermediary, references to the publication of a notification under section 4 or to the date of vesting were references to the order granting the application or to the date of such order, and references to the vesting under section 5 were references to the vesting under this sub-section. The State Government shall have also power to make such other orders for giving effect to the provisions of this sub-section as it deems necessary.

Effect of
notification

5. ²[(1)] Upon the due publication of a notification under section 4, on and from the date of vesting---

(a) the estates and the rights of intermediaries in the estates, to which the declaration applies, shall vest in the state free from all incumbrances; in particular and without prejudice to the generality of the provisions of this clause, every one of the following rights which may be owned by an intermediary shall vest in the State, namely:-

(i) rights in sub-soil, including rights in mines and minerals,

i.(ii) rights in hats, bazaars, ferries, ³* fisheries, tools and other sairati interests;

¹Sub-section (6) was substituted for the original sub-section by s. 2 of the West Bengal estates Acquisition (Second amendment) act. 1954 (West Ben Act XXVIII of 1954).

²Section 5 was re-numbered as sub-section (1) that section by s. 2 of the West Bengal Estates Acquisition Act, 1964 (West Ben. Act XXII of 1964).

³The word “forest “ was omitted with retrospective effect by s. 3(a) of the West Bengal estates Acquisition (Second Amendment) Act, 1975 (West Ben. Act XXV of 1975).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.--- Section 5.)

- ¹(aa) all lands in any estate comprised in a forest together with all rights to the trees therein or to the produce thereof and held by an intermediary or any other person shall ²* * * * vest in the State;
- (b). all grants of and confirmation of titles to, estates and rights therein , to which the declaration applies and which were made in favour of intermediaries shall determine;
- (b) ³[4 (subject to the provisions of sub-section (3) of section 6, every non-agricultural tenant holding any land) under an intermediary, and until the provisions of Chapter VI are given effect to, every raiyat holding any land under an intermediary], shall hold the same directly under the State , as if the State had been the intermediary, ad on the same terms and conditions as immediately before the date of vesting:
- ⁵Provided that if any non-agricultural tenant pays rent wholly king or partly in kind and partly in cash, then, notwithstanding anything contained in the foregoing clause, he shall pay such rent as a Revenue Officer specially empowered by the State Government in this behalf may detemine in the prescribed manner and in accordance with the principle laid dpwn in clause (ii) of section 42:
- ⁵Provided further that any person aggrieved by an order passed by the revenue Officer determining rent under the first proviso may appeal to such authority and within such time as may be prescribed;
- (c) ⁶[every non-agricultural tenant holding under an intermediary and until the provisions of Chapter VI are given effect to, every *raiyyat* holding under an intermediary,] shall be bound

¹Clause (aa) was inserted with retrospective effect by s. 3(b) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

²The words” notwithstanding anything to the contrary contained in any judgement, decree or order of any court or Tribunal,” were omitted by s.2(a) of the West Bengal Estates Acquisition (Amendment) Act 1977 (West Ben. Act XXXVI of 1977).

³These words within square brackets were substituted with retrospective effect for the words “until the provisions of Chapter VI are given effect to every raiyat or non-agricultural tenant, holding any land under an intermediary” by s. 3(1) of the West Bengal Estates Acquisition (Amendment) Act.1957 (West Ben. Act IV of 1957).

⁴Substituted with retrospective effect for the words “every non-agricultural tenant holding any land “ by s. 2(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1963).

⁵ These provisos were added by s. 2 of the West Bengal Estates Acquisition (Amendent) Act, 1963 (West Ben. Act XXII of 1963).

⁶These words within square brackets were substituted with retrospective effect for the words “ every raiyat or non-agricultural tenant holding under an intermediary” by s. 3(2) of the West Bengal Estates Acquisition (Amendent) Act, 1957, 1957 (West Ben. Act IV of 1957).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.- Section 5A.)

to pay to the State his rent and other dues in respect of his land, accruing on and from the date of vesting , and every payment made in contravention of this clause shall be void and of no effect.

- ¹(2) For the removal of doubts it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal or in any other law, rights and interests in munes and minerals of all intermediaies, being lessees and sub-lessees, in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of such notified area.

²(30) It is further declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal or in any other law, all lands in any estate comprised in a forest with all rights to the trees or to the produce thereof as mentioned in cclause (aa) of sub-section (1) in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of that area.

Restriction
On certain
of transfer

³5A. (1) The State Government may after the date of vesting enquire into any case of transfer of ay land by an intermediary made between the 5th day of May , 1953 Transfers. And the date vesting , if in its opinion there are prima-facie reasons for believing That such transfer was not bonafide.

(2) If after such enquiry the State Government finds that such transfer was not bonafide, it shall make an order to that effect and thereupon the transfer shall stand cancelled as from the date on which it was made or purported to have been made :

Provided that, subject to such cancellation , nothing in this sub-section shall be deemed to affect any rights which the transferor or the transferee may otherwise have against each other.

(3) If after such enquiry the State Government finds that the transfer was bonafide, it shall make an order to that effect and thereupon the following consequences shall ensue, namely:-
(i) the land shall , without prejudice to any rights which the transferor or the transferee may have against each other, be deemed to be the land of the transferee for the purpose of this Act;

¹Sub-section (2) was added by s. 2(2) of the West Benal Estates Acquisition (Amendment)Act, 1977 (West Ben. Act XIIIof 1964). See also foot-note 2 on page 5, ante.

²Sub-section (3) was inserted by s. (b) of the West Bengal Estates Acquisition (Amendment) Act, 1977 (West Ben. Act. XXXVI of 1977).

³Section 5A was inserted with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1954 (West Ben. Act XIII of 1954).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein .-Section 5A).

(ii) if any such land or any part thereof is retained by the transferee under the provisions of this Chapter, such land or such part thereof may be taken into account in calculating the land which may be retained by the transferor under this Chapter as if such land or such part thereof had never been transferred and were retained by the transferor or chosen by him as land to be retained by him.

- (4) The State Government may delegate¹ all or any of its powers under this section to such officers in its service as it may deem fit.
- (2) The procedure to be followed in such enquiry shall be such as may be prescribed.

Provided that ---

(i) no order shall be passed in an enquiry held under this section except after giving the transferee and the transferee an opportunity of being heard;

(ii) in conducting such enquiry the State Government and any officer to whom any powers have been delegated under sub-section (4) shall have all the powers of a civil court for the purposes of taking evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents and shall be deemed to be civil court within the meaning of sections 480, 481 and 482 of the Code of Criminal Procedure, 1898.

An appeal against any order passed by the State Government under sub-section (2) or sub-section (3), or passed under any of those sub-sections as read with-section (4) by an officer to whom powers have been delegated under sub-section (4), if preferred within sixty days of such order² [or within sixty days from the date of appointment of the Special Judge, whichever is later], shall lie to a Special Judge³ (being a person who is or has been a District Judge of an Additional District Judge)⁴ appointed by the State Government for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

Act V of
1898.
(3)

¹For delegation of powers, see notification No. 6786L. Ref., dated the 9th April, 1956 of the Land and Land Revenue Department, published in the Calcutta Gazette, Extraordinary of the 10th April, 1956, Part I, page 750.

²These words within square brackets were inserted by s. 3(1) of the West Bengal Estates Acquisition (Amendment) Act 1961 (West Ben. Act IX of 1961).

³These words within square brackets were substituted for the words "not being an Officer below the rank of a District Judge" by s. 3(2) *ibid*.

⁴For notification relating to appointment of certain Officer to be the Special Judges for the purpose of section 5A of the Act in respect of the districts specified, see notification NO. 15354L. Ref., dated 14.10.60, published in the Calcutta Gazette, Extraordinary of 1960, Part I, Page 2677.

(Chapter II. Acquisition of estates and of the rights of intermediaries therein. –Section 5B.)

(4) In this section,----

(i) a transfer shall be held to be not bona fide if it was made principally or partially with the object of increasing the amount of land which a person may retain under this Chapter or principally or partially with the object of increasing the amount of compensation payable under Chapter III or chapter IV;

(ii) a transfer in favour of one or more of the following relatives of the transferor that is to say,--

a wife , a husband , a child , a grand-child, a parent, a grandparent, a brother, a sister 's son, a daughter's husband, a son's wife, a wife's brother or sister , ora brother's wife.

Made between the 5th day of Mat, 1953 and he date of vesting shall be presumed to be not bona fide until the contrary is proved :

Provided that no such presumption shall be made in respect of transfer of land by an intermediary if the aggregate area of such land owned by the intermediary at any time between the 5th day of May , 1953 and the date of transfer did not exceed twenty acres in the case of non-agricultural land and twenty –five acres in extent in the case of agricultural land;

(iii) 'transfer' means a transfer by sale, mortgage, lease, exchange or gift;

(iv) 'transferor' and 'transferee' include the successors in interest of a transferor or a transferee.

XI of 1859.
CoochBehar
Act V of 1897.
Ben.Regn.VIII
Of 1819.

¹**5B** On and from the 1st day of June 1954, no estate, tenure or under-tenure shall be liable to be sold under the Bengal Land Revenue Sales Act, 1859 or the Cooch Behar Revenue Sales Act, 1897 or the Bengal Patni Taluks Regulation , 1819, or the Bengal Tenancy Act 1885, under any of those Acts or that Regulation shall be deemed to have void and of no effect :

Provided that where by reason of the foregoing provision of this section, any estate, tenure or under –tenure is not sold, or whee such sale is void and of no effect, the arrears for which the estate, tenure or under-tenure would have been sold or wee sold, shall notwithstanding anything

Estate or tenure
Not liable to be
sold under ActXI
of 1859, Cooch
Behar Act V of
1897, Bengal
Regulation VIII of
1819 and Act
VIIIof 1885

¹Section 5B was inserted with retrospective effect from the 1st day of June , 1954 by s. 3 of the West Bengal estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII pf 1954).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein. – Section 6.)

to the contrary in any other law, bear simple interest at the rate of ten *per centum per annum* from the date on which they become or became payable or from which the sale is deemed to have been void and of no effect, as the case may be up to the date immediately preceding the date of vesting of such estate, tenure or under-tenure.

Right of
Interme-
Diary to
Retain
certain
Lands.

6. (1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall, except in the cases mentioned in the proviso to sub-section (2) but subject to the other provision of that sub-section, be entitled to retain with effect from the date of vesting--

- (a) land comprised in homesteads;
- (b) land comprised in or appertaining to buildings and structures ¹[owned by the intermediary or by any person, not being a tenant, holding under him by leave or license];

²Explanation. – For the purposes of this clause ‘tenant’ shall not include a thika tenant as defined in the Calcutta thika Tenancy act, 1949;

West Ben
Act II of 1949.

- (c) non-agricultural land in his khas possession ³[including land held under him by any person, not being a tenant, by leave or license], not exceeding fifteen acres in area, and excluding any land retained under clause (a):

Provided that the total area of land retained by an intermediary under clauses (a) and (c) shall not exceed twenty acres, as may be chosen by him:

Provided further that if the land retained by an intermediary under clause (c) or any part thereof is not utilised for a period of five consecutive years from the date of vesting, for a gainful or productive purpose, the land or the part thereof may be resumed by the State Government subject to payment of compensation determined in accordance with the principles laid down in sections 23 and 24 of the land Acquisition Act, 1894;

I of 1894.

- (d) agricultural land in his khas possession, not exceeding twenty-five acres in area, as may be chosen by him:

¹These words within square brackets were substituted with retrospective effect for the words, “whether erected by the intermediary or not” by s. 4(1)(a) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

²This explanation was added with retrospective effect by s. 4(1)(b), *ibid.*

³These words within square brackets were inserted with retrospective effect by s. 4(1)(c), *ibid.*

(Chapter II. – Acquisition of estates and of the rights of intermediaries therein.- Section 6.)

¹ Provided that in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, as intermediary shall be entitled to retain all agricultural land in his khas possession, or any part thereof as may be chosen by him;

(e) tank fisheries ;

Explanation.—“tank fishery” means a reservoir or place for the storage of water, whether formed naturally or by excavation or by construction of embankments, which is being used for pisciculture or for fishing, together with the sub-soil and the banks as are included in a homestead such portion of the banks as are included in a homestead or in a garden or orchard and includes any right of pisciculture or fishing in such reservoir or place;

(f) ³[subject to the provisions of sub-section (3),] land comprised in tea gardens or orchards or land used for the purpose of livestock breeding, poultry farming or dairy;

(g) ⁴[subject to the provisions of sub-section (3),] land comprised in mills, factories, or workshop;

(h) where the intermediary is a local authority,-- held ⁵ * * * * * by such authority, notwithstanding such land or any part thereof may have been let out by such authority :

⁶ Provided that where any land which has been let out by any local authority is retained by such authority under this clause, no person holding such land shall have any right or occupancy therein, and every such person shall be bound to deliver possession of the land to the local authority when required by it for its purposes ;

¹This proviso was substituted with retrospective effect for the original proviso by s.3(1) (a) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²For notification declaring the areas comprised in the Sadar, Kurseong and Kalimpong subdivisions of the district of Darjeeling to be hilly portions for the purposes of the proviso to clause (d) of sub-section (1) of section 6 of the Act, see Notification No. 7348L.Ref., dated 17.4.56, published in the Calcutta gazette of 1956, part I, page 1543.

³These words, brackets and figure within square brackets were inserted with retrospective effect by s. 3(1)(b) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁴The words brackets and figure within square brackets were inserted with retrospective effect by s. 3(1)(c), *ibid.*

⁵The words “in khas for public purpose” were omitted with retrospective effect by s. 4 (1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁶This proviso was added with retrospective effect by s. 4(2), *ibid.*

(Chapter II. – Acquisition of estates and of the rights of intermediaries therein.—Section 6.)

¹(i) where the intermediary is a corporation or an institution established exclusively for a religious or a charitable purpose or both, or is a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both –land held in khas by such corporation or institution , or person, for such purpose ²[including land held by any person, not being a tenant, by leave or license of such Corporation or institution or person]

Ben.Act XXI (j) where the intermediary is a co-operative society registered or deemed to have been registered Of 1940. under the Bengal Co-operative societies Act, 1040, or a company incorporated under the Indian Companies Act, 19133, engaged exclusively in farming (and in business, if any, connected directly with such farming),--agricultural land in the khas possession of the society or the company on the 1st day of VII of 1913. January, 1952, and chosen by the society or the company , not exceeding in area the number of acres which persons, who were the members of the society or the company on such date, would have been entitled to retain in the aggregate under clause (d) , if every such person wee an intermediary :

Provided that where any such person retains any land under clause (d) , such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain.

⁴(k) so much of requisitioned land as the intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clausues;

Explanation.- ‘ requisitioned land’ means any land which was in the khas possession of the intermediary and which was requisitioned by Government under provisions of any law for the time being in force or was occupied by

¹This clause was substituted with retrospective effect for the original clause by s. 3(1)(d) of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²These words within the square brackets were inserted with retrospective effect by s. 4(1) (d) of the West Bengal Estates Acquisition (Amendment) Act ,1961(West Ben. ActIX of 1961).

³The Indian Companies Act, 1913 (VII of 9131) was repealed and re-enacted by the Companies Act, 1956 (I of 1956).

⁴Clauses (k) and (I) were inserted with retrospective effect by s. 3(1) of the west Benal estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter II. – Acquisition of estates and of the rights of intermediaries therein .—Section 6.)

Government in pursuance of rule 49 of the defence of India rules and continued to be subject to requisition or occupation on the date mentioned in the notification issued under section 4;

¹(1) so much of land in the unauthorised occupation of refugees from East Bengal immediately before the date of vesting as an intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses;

West Ben.
XVI of 1951.

Explanation.— ‘Refugees from East Bengal’ includes those who are displaced persons within the meaning of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Act Occupation of Land Act, 1951.

²Exception.—³[Subject to the provisions contained in sub-section (3), nothing in this sub-section] shall entitle an intermediary⁴[or any other person] to retain any land comprised in a forest ⁵[or any embankment as defined in the Bengal Embankment Act,1882, the proper maintenance of which should , in the opinion of the State Government , be taken over by the State Government in the public interest.]

Ben. Act II
Of 1882.

(2) An intermediary who is entitled to retain possession of any land under sub-section (1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record-of-rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (i) :

Provided that if any tank fishery or any land comprised in a tea-garden , orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the state Government on the same terms and conditions as immediately before such date ⁶[subject to such modification therein as the State Government may think fit to make.]

¹ See foot-note 4 on page 12, ante.

²This paragraph was added with retrospective effect by s. 3 (1) (e) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

³Substituted with retrospective effect for the words “Nothing in this sub-section” by s. 3(1) of the West Bengal Estate Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

⁴These words within the square brackets were inserted with retrospective effect by s. 4(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

⁵These words within the square brackets were inserted with retrospective effect by s. 4(1) (e) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁶These words within the square brackets were inserted with retrospective effect by s. 4(2), *ibid*.

(Chapter II. Acquisition of estates and of the rights of intermediaries therein. – Section 6.)

¹(3) In the case of land comprised in a tea-garden, mill factory or workshop the intermediary, or where the land is held under a lease, the lessee, shall be entitled to retain only so much of such land as, in the opinion of the State Government, is required for the tea-garden, mill factory or workshop, as the case may be, and a person holding under to be an intermediary :

²Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea-garden, mill, factory or workshop, as the case may be.

⁴Ex-planation.—In the case of land allowed to be retained by an intermediary or lessee in respect of a tea-garden, such land may include any land comprised in a forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea-garden.

⁵(3A) Land which may be retained under clause (k) or clause (1) of sub-section (1) shall, if necessary, be demarcated in such manner as may be prescribed and shall be specified in an order made in this behalf by a Revenue Officer specially empowered for the purpose by the State Government.

West Ben. Act XVI of 1951. ⁵(3B) In executing any order for eviction of persons in unauthorised occupation of land in pursuance of proceedings under the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation Of Land Act, 1951, possession shall be given to the intermediary of only so much of such land as he is entitled to retain under clause (1) of sub-section (1) and possession of any land in excess thereof shall be given to the Revenue Officer having jurisdiction over the area in which the land is situated.

⁵(3C) For the purpose of sub-section (3B) the officer or authority executing the order for eviction shall ascertain from the Revenue Officer referred to in sub-section (3A) particulars of the land possession of which may be given to the intermediary.

VIII of 1885.
Cooch Behar
Act V of 1910. ⁵(3D) Except as otherwise specifically provided in this Act or in the rules made there under, the provisions of the Bengal Tenancy Act 1885 or the Cooch Behar Tenancy Act, 1910 shall not apply in the case of any land referred to in sub-section (2).

¹Sub-section (3) was added with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²This proviso was added with retrospective effect by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1969 (West Ben. Act XXXI of 1969).

³This Explanation was added with retrospective effect by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

⁴ This Exception was added with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963).

⁵Sub-section (3A), (3B), (3C) and (3D) were inserted with retrospective effect by s. 3(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.—Section 7.)

¹(4) In the case of lands comprised in a forest ²[or in any embankment, referred in the Exception to sub-section (1)] and held by a person other than an intermediary which vest in the State, such person shall, for the purpose of assessment of compensation, be deemed to be an intermediary.

¹(5) An intermediary shall exercise his choice for retention of land under sub-section (1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limits specified in clauses (c), (d) and (j) of that sub-section :

Provided that nothing in this sub-section shall require an intermediary to exercise the choice if he has already done so before the date of coming into force of the West Bengal Acquisition (Second Amendment) Act, 1957.

West Ben.
Act.
XXV 1957.

Arrears of
Land revenue,
Cesses, taxes and
Impositions due
From any inte-
Rmediary.

³7. (1) All arrears of land revenue, cesses, taxes and other impositions by the State relating to any period prior to the date of vesting lawfully recoverable from any intermediary in respect of ⁴[his share in] any estate which vests in the State under section 5 shall, after the date of vesting, continue to be recoverable from such intermediary, and shall, without prejudice to any other mode of recovery, be recoverable under an order of a Collector by deduction of the amount of such arrears from the money ⁵ [which such inte- Rmediary is entitled to receive as compensation] under this Act :

⁶ Provided that where the intermediary agrees in writing that the whole of the compensation money payable to him including the amount recovered by the State government under the provisions of section 9, if any, may be adjusted against the arrears recoverable from the intermediary under this sub-section, no other mode of recovery shall be adopted for the recovery of any such arrears, except the balance, if any, remaining due after such adjustment, and suits and proceedings, if any, pending for the recovery of any such arrears shall remain stayed until such adjustment has been made.

¹Sub-section (4) and (5) were inserted with retrospective effect by s. 4(b) of the West Bengal estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

²These words within the square brackets were inserted by s. 3(3) of the West Bengal estates Acquisition (Amendment) Act, 1963 (West Ben. Act. XXII of 1963.)

³Section 7 was substituted with retrospective effect for the original section by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁴These words within the square brackets were inserted with retrospective effect by s. 5 of the West Bengal estates Acquisition (Amendment) Act, 1961 (West Ben act IC of 1961).

⁵ These words within the square brackets substituted with retrospective effect for the words “payable as compensation to such intermediary” by s. 3 of the West Bengal estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁶This proviso was substituted for the original proviso s.2 of the West Bengal estates Acquisition ((Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.—Sections 8,9.)

(2) In computing the period of limitation for the institution of any suit or proceeding for the recovery of any arrears referred to in sub-section (1), the time taken for adjustment of the arrears in accordance with the proviso to sub-section(1) shall be excluded.

8. All arrears of rent and cesses ¹[together with interest thereon and other amounts lawfully recoverable by] any intermediary on the date of vesting from any person, in respect of any interest of such intermediary which vests under section 5, and all sums due from such person in respect of any decree for arrears of rent in respect of such person in respect having the effect of a rent-decree or money-decree and whether obtained before or after the date of vesting, and the execution of which is not barred by limitation, shall continue to be recoverable by such Intermediary

² * * *

³[Provided that if such person be himself an intermediary, the recovery of such arrears from the compensation payable to him shall be subject to the provisions of section 26 of this Act :]

⁴ Provided further that if on the date of vesting a notification under section 99 of the Cess Act, 1880, was in force in respect of any interest of an intermediary or if any interest of a intermediary was let in farm or managed by a Collector under clause (b) or clause (c) of section 73 of the Bengal embankment act, 1882, then in computing the period of limitation for the institution of any suit or proceeding by the intermediary for the recovery of any arrears of rent or cesses in respect of such interest, the period during which such notification was in force or during which the interest was let in farm or managed by the Collector, shall be excluded.

9. ⁵(1) An intermediary may ⁶ * * * apply to the State Government for recovery by the State Government for recovery by the State Government of all sums recoverable by him under the provisions of section .

¹These words within the square brackets were substituted with retrospective effect for the words “together with interest thereon remaining due to” by s.5 of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben Act XXXV of 1955).

²The words “and shall without prejudice to any other mode of recovery be recoverable by attachment of any money that may be payable as compensation to such person under this Act” were omitted by s. 4 of the West Bengal estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII of 1954)>

³ This proviso within the square brackets was added by s.4, ibid.

⁴This further proviso was added with retrospective effect by s. 5 of the West Bengal estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

⁵This sub-section was substituted with retrospective effect for the original sub-section by s. 6(1) of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁶ The words “at any time within twelve months from the date of vesting.” Were omitted with retrospective effect by s. 6(a) of the West Bengal estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.--- Section 9.)

- (2) The State Government may grant or refuse such application as it thinks fit ¹[but no such application shall be granted if made after the expiry of twelve months from the date of vesting unless the intermediary makes an agreement in writing referred to in the proviso to sub-section (1) of section 7].
- (1) If the State Government grants the applications, it shall be competent for the State Government to recover ²[all such sums] as if they were public demands, or in any other manner as of the State Government were the intermediary :

³Provided that if any such sum be recoverable from more persons than one who are co-sharers and who are jointly and severally liable to pay such sum, the extent of liability of each such co-sharer shall first of all be ascertained by the Court in which, or the Officer before whom, proceedings in execution are taken, and no such proceedings shall, after the passing of the West Bengal Estates Acquisition (Amendment) Act, 1961, be continued against all the co-sharers until the proceedings against each co-sharer in respect of his individual liability as so ascertained have been wholly or partially unsuccessful.

- (2) The State Government shall, from time to time in accordance with such rules as may be prescribed, send to the intermediary, accounts of the ⁴[amount recovered in pursuance of sub-section (3)], ⁵[and shall, subject to the terms of the agreement made in compliance with sub-section (2), where such an agreement is made, pay] to the intermediary ⁶[the amount so recovered after deducting therefrom the actual cost of recovery subject to a minimum of twenty *per centum* of the amount recovered]. Such accounts shall be treated as conclusive and shall not be questioned in any manner.
- (3) The State Government shall not be liable if it fails to recover the whole or any portion of ⁷[the sums referred to in sub-section (1)].

¹These words within the square brackets were added with retrospective effect by s. 6(b) of the West Bengal estates Acquisition (Amendment) Act, 1957 (West Ben Act IV of 1957).

²These words within the square brackets were substituted with retrospective for the words "such arrears aforementioned" by s. 6(2) of the West Bengal estates Acquisition (Amendment) Act 1955 (West Ben. ACT IX of 1955.)

³This proviso was added by s. 6 of the West Bengal estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁴These words within the square brackets were substituted with retrospective for the words "amounts of arrears aforementioned actually collected" by s. 6(3)(a) of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben. XXXV of 1955).

⁵These words within the square brackets were substituted with retrospective effect for the words "and shall pay" by s. 6(c) of the West Bengal estates Acquisition (Amendment) Act 1957 (West Ben. Act IV of 1957.)

⁶These words within the square brackets were substituted with retrospective effect for the words "half of the amount so collected and retain the other half for itself" by s. 6(3)(b) of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben Act XXXV of 1955).

⁷.Substituted with retrospective effect for the words "such arrears aforementioned" by s. 6(4), *ibid*.

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.--- Section 10.)

lector to take
 rge of estates
 d rights of
 rmediaries
 sted in the State.

10. (1) Upon the publication of any notification under section 4, the Collector shall take charge of s
 estates and interest s of intermediaries which vest in the State under section 5.

(2). For the purpose as aforesaid, the Collector may, by a written order served in the prescribed
 Manner , require any intermediary or any person in possession (khas or symbolical) of ay such estate or
 of any such interest, to give up such possession by a date to be specified in the order (which shall not be earlier than
 sixty days from the date of service of the order) and to deliver by that date any documents , registers, records and
 collection paper connected with the management of such estate or of such interest which are in his custody and to
 furnish a statement in the prescribed form in respec tof such estate or such interest.

(3) The Collector or any other officer authorised by him in this behalf may take such steps or muse such force,
 as may be necessary to enforce compliance with the order and may also enter any building orm place for
 the purpose of taking possession of documents , registers, records or collection papers referred to un sub-
 section(2).

(4) An intermediary shall be entitled in accordance with such rules as may be prescribed, to take inspection of
 any documents, registers, records, or collection papers which have been delivered to or taken possession of
 by the Collector, to make notes therefrom or to have certified copies thereof gntated to him. Nofees shall
 be charged for taking inspection or for making notes but fees may be charged according to the prescribed
 scale for certified copies. Certified copies granted under this sub-section shall be admissible in evidence.

(5) Nothing in this section shall authorise the Collector to take khas possession of any estate or of any right of
 an intermediary therein, which may be retained under section 6.

¹(6) If after any estate or any interest therin of an intermediary has vested in the State under section 5, the
 intermediary or any other person possesses any land which was in the khas possession of the intermediary
 before the date of vesting but which the intermediary has not retained or cannot retain under section 6, then
 whether possession of scuh land has been taken by the Collector in pursuance of sub-section (2) or not, the
 intermediary or such other person shall be liable for the period for which he is in possession of such land to pay-

(a) where such possession is authorised by the licence of the Collector, such licence fee as may have
 been agreed upon between him and the Collector, or in the absence of any agreement, as shall be
 calculated at the rate of Rs. 10 per acre *per annum*, or

¹Sub-section (6) and (7) were inserted with retrospective effect by s. 2 of the West Bengal estates
 Acquisition (Amendment) Act, 1966 (Wset Ben. Act XIV of 1966).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.--- Section 11.)

¹(b) where such possession is not authorised by the Collector, such damages for use and occupation of such land as may be determined by the Collector, after giving the intermediary or such other person an opportunity of being heard, at rate not exceeding---

- (i) in the case of agricultural land , twenty-five *per centum* of the money value of the gross annual produce of such land ;
- (ii) in other cases, ten *per centum* of the market value of the land *per annum*.

²(7) Any amount payable under sub-section (6) on account of licence fee or damages, as the case may be , shall be recoverable as a public demand :

³Provided that where damages are due from an intermediary, the same may, without prejudice to any other mode of recovery, be set off under an order of the Collector against the compensation payable to the intermediary under this Act.

liability for non-compliance of Collector's order.

11. (1) If any person on whom an order has been served under sub-section (2) of section 10, wilfully fails or neglects to comply with all or any of the directions given in such order within the time specified therein or within such further time as the Collector may allow or withholds any documents, registers, records or collection papers, or wilfully furnishes any incorrect statement, it shall be lawful for the Collector , after giving such person an opportunity of being heard, to impose a fine upon such person. Such fine may extend—

- (a) in the case of a proprietor--- to five times the annual revenue and cess payable by him or to one thousand rupees, whichever is greater ;
- (b) in the case of an intermediary who is not a proprietor,-- to five times the annual rent payable by him or to one thousand rupees, whichever is greater ;
- (c) in other cases,--- to one thousand rupees.

(2) An appeal against any order of the Collector under sub-section (1), if preferred within sixty days of such order , shall lie to a Special Judge appointed for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

¹Clause (b) was substituted for the original clause by s. 2(a) of the West Bengal estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975).

² See foot -note 1 on page 18, *ante*.

³This proviso was added by s. 2(b) of the West Bengal estates Acquisition Act, 1975 (West Ben. Act XXI of 1975).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein. – Section 12.)

- (3) The fine imposed under sub-section (1) or as confirmed or varied on any appeal therefrom shall be paid within sixty days of the order imposing the fine, or the order on appeal, as the case may be, and in default of such payment shall be recoverable as a public demand.

ment of ad interim
compensation.

12. ¹[(1)] Every intermediary whose estate or interests have vested in the State and have been taken charge of by The Collector under section 10 shall be entitled to receive in cash, in respect of such estate or interests at Such manner as may be prescribed, an annual *ad interim* payment of 2[such amount as may be prescribed]. Such payments shall be deemed to be part of the compensation payable to such intermediary and shall, at the time of payment of such compensation, be deducted and adjusted against it, so however that where such compensation is payable partly in cash and partly in 3[bonds, the adjustment shall be first against the compensation payable in cash ⁴(and the interest on such compensation payable under this Act) and then, if necessary, against the compensation payable in bonds :]

Provided that the first annual *ad interim* payment shall be made within eighteen months from the date of vesting ⁵ and no *ad interim* payment shall be made [after assessment of the compensation payable to the intermediary and publication on the Compensation Assessment Roll under sub-section(1) of section 14 or sub-section (5) of section 15, as the case may be :]

¹The original section 12 was renumbered as sub-section (1) of that section by s. 5 of the West Bengal estates Acquisition (Second Amendment) Act, 1954 (West Ben. Act XXVIII of 1954).

²These words within the square brackets were substituted for the words "one third of the net approximate annual income from such estates and interests calculated in the prescribed manner" by s. 4 of the West Bengal estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

³These words within the square brackets were substituted for the words "annual instalments, the adjustment shall, as far as practicable, be against the instalments," by s 7(1) (a) of the West Bengal estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

⁴These words within first brackets were inserted with retrospective effect by s. 4 of the West Bengal estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

⁵The words "and no adinterim payment shall be made after the date of final publication under section 21 of the Compensation assessment Roll in respect of such intermediary" were originally added with retrospective effect by s. 7(1) of the West Bengal estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955), and thereafter these Acquisitoon within square brackets were substituted for the words "after the date of final publication under section 21 of the Compensation Assessment Roll in respect of such intermediary" by s. 5 of the West Bengal estates Acquisition (Amendment) Act, 1960 (West Ben. Act.XVII of 1960).

(Chapter II. Acquisition of estates and of the rights of intermediaries therein.--- Section 12.)

¹Provided further thatn where havinregard to the financial position and other circumstances, if any , of an intermediary or a class of intermediaries or of a person or a class persons entitled to receive compensation unthe the provisions of this Act, the State Government considers it necessary so to do, the State Government may, by order direct ad interim payment to such class of persons of such amounts and at such intervals as may be specified in the order, the amount so paid being adjusted in the manner laid down in the foregoing provisions of this sub-section.

²(2) Notwithstanding anything contained in sub-section (1), where the estate or interest of an intermediary referred to in clause (i) of sub-section (1) of section 6 has vested in the State and has been taken charge of by the collector under section 10, such intermediary shall be entitled to receive an annual ad iterim payment of the approximate net annual the intermediary has retained under the provisions of sub-section (1) of section 6, subject to deduction or adjustment in such manner as may be determined in this behalf by the Compensation Officer against the annuity payable under the proviso to sub-section (1) of section 17.

³(3) It shall be competent, notwithstanding anything to the contrary elsewhere in this act or in any enacment or any general principle of law, to make any payment of any compensation(ad inteim or final) under this act,--

- (a) in the cae of a minor, to the guardian of such minor, and
- (b) in the case of a lunatic, to the manager of the estate of such lunatic appointed under the Indian Lunacy Act, 1912:

IV of 1912.

Provided that except in the case of the following classes of guardians, that is to say,

- (i) a natural guardian.
 - (ii) a guardian appointed by the will of a minor's father of mother,
 - (iii) a guardian appointed or declared by a court, and
-

¹The second proviso to section 12 was originally added to that section by s. 5(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1954 (west Ben. Act XXVIII of 1954). And thereafter this proviso was substituted for the proviso originally added by s. 7(1) (b) of the West Bengal Estates Acquisition (Amendment) Act 1961 (West Ben. Act IX of 1961).

²Sub-section (2) was originally added to this section by s. 5(2) of the West Bengal Estates Acquisition (Second Amendment) Act 1954 (West Ben. Act, XXVIII of 1954), and thereafter this sub-section was substituted with retrospective effect for the sub-section originally added by s.7(2) of the West Bengal Estates Acquisition (Amendment) Act , 1955 (West Ben. Act XXXV of 1955).

³Sub-section (3) was added wity retrospective effect by s. 7 of the West Bengal Estates Acquisition (Amendment) Act 1957 (West Ben. Act IV of 1957).

(Chapter II. – Acquisition of estate and of the rights of intermediaries therein. – section 13.--- Chapter III.— Assessment and payment of compensation . --- Section 14.)

- (iv) a person empowered to act as or exercise the powers of a guardian by or under any enactment relating to court of wards.

No payment as aforesaid shall be made unless the guardian furnishes security in accordance with prescribed rules.

¹(4) An intermediary who is a limited owner shall be entitled to receive ad interim payment to the extent of the amount of interest calculated in accordance with the provisions of this Act on the estimated total compensation payable for the estate or interests vesting in the State.

13. All estates and all interests of intermediaries therein, which have vested in the State under a notification under section 4 and which have been taken possession of by the Collector under section 10 shall be managed according to such rules as the State Government may from time to time make in this behalf :

Provided that the State Government may at any time, if it so thinks fit, entrust the management of such estates and such interests to any statutory authority on such terms and conditions, as it may, by general or special order, fix and the statutory authority shall manage such estates and such interests in accordance with rules made by the State Government in this behalf.

CHAPTER III
Assessment and payment of compensation.

²14. (1) The Compensation Officer shall ³ * * * * *
prepare in respect of all intermediaries having lands in the notified area or in any part thereof over which the Compensation Officer has jurisdiction, a Compensation Assessment Roll on Roll on the basis of the record-of-rights prepared and finally published under Chapter V and publish the same in such manner as may be prescribed.

¹Sub-section (4) was added by s. 7(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

²Section 14 was substituted for the original section by s. 6 of the West Bengal Estates Acquisition (Amendment) Act , 1960 (West Ben. Act XVII of 1960).

³ The words, "within ten years of the date of vesting ", were omitted by s. 5 of the West Bengal Estates Acquisition (Amendment) Act , 1964 (West Ben. Act XXII of 1964).

(Chapter III. Assesemnt and payament of cpmensation section 15.)

- (2) The Compensation Assessment Roll shall contain particulars about the gross income and the net income of each intermediary from all his estates and interests within the area, the amount of compensation payable in accordance with the provisions of this Act and such other particulars as may be prescribed.
- (3) Every intermediary who has a share in any estate or interest which has vested in the State under section 5, shall be treated separately for assessment of comeensation;

Provided that any intermediary who acquired by a voluntary transfer made after the 1st day of January , 1952, a share in any estae or interest, not being the entire share of the transferor, shall not be treated separately.

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- ¹15. (1) within one month of the publication of the Compensation Assessment roll under of section 14-----
- (a) an intermediary may file before the Compensation Officer an objection in writing in the p prescribed form in respect of any entry therein, or any omission therefrom relating to his estates, interests or income;
 - (b) an intermediary having estates or interests in any other area or areas shall submit to the Compensation Officer a statement in the prescribed form containing particulars of all his Estaes and interests wherever situated and the income therefrom.
- (2) The Compensation Officer shall, except in a case where an intermediary has filed a statement under clause (b) of sub-section(1), hear and dispose of any objection filed under clause (a) of the said sub-section according to such procedure as may be prescribed.
 - (3) When an intermediary files a statement under clause (b) of sub-section (1), the Compensation Officer shall forward it to the Collector ² * * *..
 - (4) On receipt of any statement forwarded to him under sub-section (3), the Collector shall—
 - (a) refer thecase to such Compensation Officer as may be specially ³ appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that all the estates and interests of the intermediary are situated within the district;

¹Section 15 was substituted for the original section by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

² The words “of the district” were omitted by s. 6 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act XIX of 1961).

³ For Notification relating to special appointment of Compensation Officers for the purpose of section 15(4) (a) and (b) of the Act, see Notification No. 17184L. Ref., dated the 19th November, 1960, published in the Calcutta Cazette, Extraordinary of 1960, Part I, page 3034.

(Chapter III. – Assessment and payment of compensation--- Sections 15A, 16.)

- (b) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that the estates and interests of the intermediary are situated in more than one district.
- (5) When cases have been referred to a Compensation Officer under clause (b) of sub-section (4), such compensation Officer shall prepare a Compensation Assessment Roll in respect of all the intermediaries whose cases have been so referred and publish it in such manner as may be prescribed . The provisions of section 14 shall apply mutatis mutandis to the preparation of such Compensation Assessment roll.

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²15A. ³[An intermediary may, within three months] of the publication of the Compensation Assessment Roll referred to in sub-section (5) of section 15, ⁴ * * * * file before the Compensation Officer an objection in writing in respect of any entry therein or any omission therefrom relating to his estates, interests or income and the Compensation Officer shall ⁵[thereupon] hear and dispose of such objection according to such procedure as may be prescribed.

ross income and net income.

- 16. (1) For the purpose of the preparation of the Compensation Assessment Roll ⁶ * * * *
 - (a) the gross income of an intermediary shall be taken to consist of--
 - (j) the aggregate of the rents and cesses payable or deemed to be payable to him for the previous agricultural year by his immediately subordinate tenants including ⁷[the average value of any rent in kind which was payable by such tenants during seven years immediately preceding the date of vesting commuted and determined] in the prescribed manner ⁸ * * * *;

¹See foot-note 3 on page 23, ante.

² Section 15a was inserted by s. 8 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

³These words within square brackets were substituted for the words “within three months” by s. 7(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben Act XIX of 1961).

⁴The words “an intermediary may” were omitted by s. 7(2) , ibid.

⁵This word within the square brackets was inserted by s. 7(3) , ibid.

⁶The words “for any notified are” were omitted by s. 9 (1) of the West Bengal Estates Acquisition (Amendment) Act , 1960 (West Ben, Act XVII of 1960).

⁷These words within square brackets were substituted for the words “the commuted value of rents in kind of such tenants determined” by s. 9(2) (a) (i) , ibid.

⁸The words “and subject to the provisions of section 40” were omitted by s.9(2)(a)(ii), ibid.

(Chapter III. Assessment and payment of compensation.---- Section 16.)

- ¹(ii) in respect of khas land which the intermediary does not retain under sub-section (1) of section 6, the annual income of such land determined in the prescribed manner;
- (ii) the income derived from hats, bazars, ferries, fisheries, tools and other sairati interests, calculated on the basis of the average annual income for five agricultural yeatrs immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available;
- ²iv) in respect of forest the average annual income from the forests for twenty-five agricultural years immediately preceding the agricultural year in which the date of vesting falls as determined by a Officer ³appointed in this behalf by the State Government on the following basis:-

st Ben. Act XIV of 1948. (I) for the period after the commencement of the West Bengal Private Forests Act, 1948,---

- (A) where the forests have been under the management of private owners in accordance with working plans approved under that Act, the annual income yielded by the forests, and
- (B) in other case, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district.
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¹Sub-clause (ii) was originally substituted with retrospective effect for the original sub-clasue by s. 8 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955), and thereafter this sub-clause was substituted by s. 9(2) (b) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

²Sub-clause (iv) was originally substituted with retrospective effect for the original sub-clause by s. 8 (1) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter this sub-clause was substituted by s. 8 (1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³For Notification relating to the appointment of ---

- (a) the Divisional forest Officer, Malda for the purposes of s. 16(1) (a)(iv) of the Act, see Notification No, 6198L. ref., dated 3.4.58, published in the Calcutta gazette of 1958, Part I, page 1248,
- (b) the Divisional Forest Officer for the purposes of s. 16(1)(a)(iv) of the Act within the jurisdiction of the Bankura division, see Notification No, 7348L Ref., dated 19.4.58 published in the Calcutta Gazette of 1958, Part I page 1324,
- (c) the Divisional forest Officers of East Midnapore, West Midnapore, Birbhum and Burdwan Divisions ot be Divisional forest Officer, see Notification No. 19788L. Ref., datee 29.9.58, published in the Calcutta Gaqztte of 1958, Part I, page 3550.

(Chapter III. --- Assessment and payment of compensation section 16.)

West Ben. Act XIV of 1948. (II) for the period before the commencement of the west Bengal Privat forests act 1948,---

- (A) where evidence as to the income yielded by the forests is available, the annual income according to such evidence, and
 (B) where no such evidence is available, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district :
- (iii) the annual income derived during the previous agricultural year from any other interest of such intermediary not expressly mentioned in sub-clauses (i) to (iv), but excluding income derived from mines directly worked by the intermediary or from leases of mines and minerals granted by him.

(b) the net income of an intermediary shall, be computed by deducting from his gross income the following, namely:--

- (i) any sum payable ¹[or deemed to be payable] by such intermediary during the previous agricultural year as land revenue, cesses or rent, ²[including the average value of any rent in kind which was payable by him during seven years immediately preceding the date of vesting commuted and determined in the prescribed manner], if any, to the State Government or to his immediately superior landlord, as the case may be, in respect of the interests to which his gross income relates ;

West Ben. Act IV of 1944,
 of 1922.

³(ii) the average of all sums payable as tax under the Bengal agricultural Income –tax Act, 1944, or the Indian Income-tax Act, 1922⁴, in respect of the interest to which his gross Income relates, for the seven years ending on the 31st day of March, 1955 or any shorter Period for which evidence is available;

- (ii) the expenditure calculated on the basis of the average expenditure for five agricultural years immediately preceding the agricultural year in which the date of

¹These words within the square brackets were inserted by s. 9(3)(a)(i) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960)

²These words within the square brackets were inserted by s. 9(3)(a)(ii), ibid.

³Sub-clause (ii) was substituted for the original sub-clause by s. 9(3)(b) ibid.

⁴The Indian Income-tax Act, 1922 was repealed and re-enacted by the Income –tax Act,

(Chapter III. --- Assesment and payment of compensation .--- section 16.)

vesting falls or for such shorter period for which evidence is available , incurred by such intermediary on account of the maintenance of any irrigation or protective works which he is bound by law or under any agreement to maintain, in respect of interests to which his gross income relates or where such expenditure should have been incurred but was not so incurred, an amount calculated inn the prescribed manner;

(iv) charges on account of management and collection at the following rates, namely :-

¹ Table	
Amount of gross income	Rate.
(i) Where the gross income does not exceed Rs. 2,500.	Nil.
(ii) Where the gross income exceeds Rs. 2,500 but does not exceed Rs. 5,000.	Two and a half per centum of the gross income.
(iii) Where the gross income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Four per centum of the gross income.
(iv) Where the gross income exceeds Rs. 10,000 but does not exceed Rs. 15,000.	Seven and a half per centum of the gross income.
(v) Where the gross income exceeds Rs. 15,000 but does not exceed Rs. 25,000.	Ten per centum of the gross income.
(vi) Where the gross income exceeds Rs. 25,000.	Fifteen per centum of the gors income :

²Provided that where deduction of such charges, at the rates specified above, from gross income yields no net income, the Collector shall, notwithstanding anything contained in this clause, fix by actual figures, subject to the approval of the State Government, such charges on account of management and collection as he may consider to be reasonable having regard to the circumstances of each particular case.

¹This table of rates was substituted for the original table of rates by s. 8(2) (a) of the West Bengal Estates Acquisition (Amendment) act, 1961 (West Ben. Act IX of 1961).

²this proviso was added with retrospective effect by s. 8(2) of the West Bengal estates Acquisition (Amendment) act, 1957 (West Ben. Act IV of 1957).

(Chapter III. – Assessment and payment of compensation. --- Section 16A.)

¹[(v) any sum payable by such intermediary out of the income from his estates or interests which have vested in the State under section 5 to any person or institution exclusively for a religious or a charitable purpose or both by virtue of any charge on such income created by operation of law or by a decree of any court or by an instrument in writing.]

²(vi) any sum payable by such intermediary out of the income of an estate or interest which has vested in the State under section 5, to a corporation or an institution established exclusively for a religious or a charitable purpose or both or to a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both, where such estate or interest was held partly for a religious or charitable purpose and partly for a purpose other than religious or charitable.

Explanation.--- Any income from a wakf, trust or an endowment which is payable for the support of the founder or his family or descendants shall not be deemed to be income payable for a religious or charitable purpose.

- (2) In the case of a recusant proprietor of a temporarily –settled estate, the malikana received by such proprietor in respect of the previous agricultural year shall be deemed to be the net income of such proprietor.

Explanation .----- For the purposes of this section” previous agricultural year” means the agricultural year immediately preceding the agricultural year in which the date of vesting falls.

Exclusion of estates and interests relating to mines and minerals. ³**16A** A Compensation Officer shall, in preparing under section 14 or section 15 a Compensation Assessment Roll, exclude from the income of an intermediary whose rights in mines and Minerals and shall after assessment of compensation for his other estates and interest refer the case to the Compensation Officer appointed under Chapter IV for assessment of compensation in accordance with the provisions of that Chapter.

¹Sub-clause (v) was inserted by s. 8(2) (b) of the West Bengal estates Acquisition (Amendment) Act. 1961 (West Ben. Act IX of 1961).

²Sub-clause (vi) was added by s. 5 of the West Bengal estates Acquisition (Amendment) act 1963 (West Ben. Act XXII of 1963).

³Section 16A was inserted by s. 10 of the West Bengal Estates Acquisition (Amendment) act, 1960 (West Ben. Act XVII of 1960).

(Chapter III. – Assessment and payment of compensation.--- section 17.)

Assessment of compensation.

17. (1) After the net income has been computed under section 16, the Compensation Officer shall¹ * * * * * proceed to determine the amount of compensation payable to intermediaries in accordance with the following table, namely :---

Table

Net income.	Amount of compensation payable.
For the first Rs. 500 of less of net income.	Twenty times of such net income.
For the next Rs. 500 or less of net income.	Eighteen times of such net income.
For the next Rs.1000 or less of net income.	Seventeen times of such net income.
For the next Rs. 2,000 or less of net income.	Twelve ⁴ times of such net income.
For the next Rs. 1,000 or less of net income.	Tem times of such net income.
For the next Rs. 15,000 or less of net income.	Six times of such net income.
For the next Rs. 80,000 or less of net income.	Three times of such net income.
For the balance of the net income.	Two times of such balance of net income.

²Provided that in the case of an intermediary referred in clause (i) of sub-section (1) of section 6, compensation payable to such intermediary shall be perpetual annuity³, or where the interest of the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as ³[may be prescribed], having regard to the circumstances, equal to the net annual income from the estate or interest of such intermediary excluding the portion thereof which the intermediary has retained under the provisions of sub-section (1) of section 6:

¹The words, "for the purpose of preparing the Compensation assessment Roll for the notified area," were omitted by s.11 of the West Bengal Estates acquisition (Amendment) Act , 1960 (West Ben. Act XVII of 1960).

²This proviso was substituted with retrospective effect for the original proviso by s. 9 of the west Bengal Estates Acquisition (Amendment) Act. 1955 (West Ben. Act XXXV of 1955).

³The words, "or where the interest of the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as the State Government may prescribe by rules, having regard to the circumstances ," were inserted with retrospective effect by s. 9 of the West Bengal Estate Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter the words within the square brackets were substituted for the words "the State Government may prescribe by rules" by s. 11(b) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

(Chapter III. – Assessment and payment of compensation.--- Section 17.)

¹Provided further that in the case of an intermediary---

- (a) Whose income consisted only of rent in kind the commuted value of which does not exceed Rs. 1,000 per year, or
- (b) whose income from rent in kind taking the commuted value thereof together with his other income from his estates or interests which have vested in the State under section 5 does not exceed the sum mentioned in clause (a).

the compensation payable to such intermediary shall be an annuity, payable for a period of twenty-five years, equal to the net annual income from the estates or interests in respect of which the intermediary received rent in kind and in the case of an intermediary mentioned in clause (b) , the amount of such annuity shall be excluded from his net income for the purpose of assessing the compensation payable to him under the general provisions of sub-section (1).

- (2) (a) Where an intermediary is the holder of a temporary interest the compensation payable to such intermediary in respect of such interest² [shall not exceed the amount of net income which the intermediary would have derived from such interest during the unexpired period thereof], or

(b) where the interest of an intermediary is subject to a usufructuary mortgage, the compensation payable to such intermediary shall be apportioned between him and his usufructuary mortgagee³ [in such proportions as may be just and fair having regard to the unexpired period of the usufructuary mortgage];

⁵(3) The sum referred to in sub-clause (v) or sub-clause (vi) of clause (b) of sub-section (1) of section 16 shall be payable to the corporation, institution or person, as the case may be, as a perpetual annuity.

¹The further proviso was added by s. 9(1) of the West Bengal Estates acquisition (Amendment) act, 1961 (West Ben. Act IX of 1961).

²These words within the square brackets were substituted for the words "shall be paid out of the compensation which would, but for the existence of such temporary interest, be payable to his immediate superior landlord" by s. 9(2) (a) , *ibid*.

³These words within the square brackets were inserted by s. 9(2)(b) , *ibid*.

⁴The words beginning with "and the Compensation Officer" and ending with "temporary interest or the usufructuary mortgage" were omitted by s. 9(2) © *ibid*.

⁵Sub-section (3) was originally added by s. 9(3) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Be. Act IX of 1961) and thereafter this sub-section was substituted s. 6 of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Be. Act XXII of 1963).

(Chapter III. – Assessment and payment of compensation.____ Sections 18-21.)

18. [Preliminary publication of Compensation Assessment Roll and disposal of objections .---
Omitted by s. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben.
Act XVII of 1960).

Contents of the order Compensation Officer. 19. The order of the Compensation Officer deciding an objection under ¹[section 15 or section 15A] or an order under sub-section (2) of section 25 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

Appeals. 20. (1) An appeal, if presented within ninety days from the days of order appealed against, shall lie from every order passed by a Compensation Officer under ²[section 15 or section 15A] or under proviso (b) of sub-section (2) of section 25 to a special Judge appointed for the purpose of this section.

Code of 1908. (2) An appeal shall lie to the High court from every order passed on appeal by a Special Judge under sub-section (1) on any of the grounds specified in section 100 of the Code of Civil Procedure , 1908.

Final publication of the Compensation Assessment Roll. 21. (1) When no objection has been filed or when all such objections have been disposed of, the Compensation Officer shall make such alterations, if any, in the ^{3*} Compensation Assessment Roll as may be necessary to give effect to any order passed on objections made under ⁴[section 15 or section 15A] and shall cause the said roll or the roll as so altered to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official designation.

(2) The publication of the Compensation Assessment Roll under sub-section (1) shall be conclusive evidence that the said roll has been duly made under this Chapter and every entry in such roll so finally published shall, subject to any modification by any order on appeal under section 20 ⁵[or on revision under section 22], be conclusive evidence of the matters referred to in such entry.

¹These words and figures within the square brackets were substituted for the words brackets and figures “sub-section(1)of section 18” by s . 13 of the West Bengal estates Acquisition (Amendment) act, 1960 (West Ben.Act XVII of 1960).

²These words and figures within the square brackets were substituted for the words brackets and figures “sub-section (1) of section 18” by s. 14 , ibid.

³The word “draft” was omitted by s. 15 (1), ibid.

⁴These words and figures within the square brackets were substituted for the words, brackets and figures “sub-section (1) of section 18” by s. 15(2) , ibid.

⁵These words within square brackets were inserted by s. 7 of the West Bengal Estates Acquisition (Amendment) Act1963 (West Ben., Act XXII of 1963).

(Chapter III. _____ Assessment and payment of compensation ,_____ Sections 22,23 .)

rection of bona-
mistakes

22. A Compensation Officer may, on application or of his own motion at any time before payment Of compensation under section 23,correct any entry in the Compensation Assessment Roll, which he is satisfied has been owing to bona fide mistake :

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 20 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

anner of payment
compensation.

23. ¹(1) (a) As soon as may be after the date of the final publication of a Compensation assessment Roll under section 21, the Compensation Officer shall , in the prescribed manner; ²[proceed to make payment] of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation Assessment Roll together with interest at the rate of three per centum annum of such compensation accruing from the date of vesting to ³[the date of final publication of the Compensation Assessment Roll] :

⁴Provided further that in any case where the amount of compensation is enhanced as a result of an appeal under section 20, interest shall, subject to the provisions of the first proviso, be calculated from the date of vesting to the date of final publication of the Compensation Assessment Roll on the amount as determined on appeal.

- (c) Where the compensation to which an intermediary is entitled is in respect of interests which vested in the State on two different dates, interest shall be calculated on such compensation from the later of such dates and to the interest to be calculated there shall be added the interest on the net income of the intermediary from his interests which vested in the State on the earlier date calculated at the same rate from such earlier date of vesting up to the later date of vesting:

Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20.

⁵(1A) Where the intermediary is a limited owner , the Compensation Officer shall make payment to such intermediary of only the amount of interest calculated at the rate mentioned in sub-section (1) on the

¹Sub-section (1) was substituted for the original sub-section by s. 10(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961), and thereafter this sub-section was substituted by s. 8(1) of the West Bengal Estates Acquisition (Second Amendment) Act 1961 (West Be. Act XIX of 1961).

²The words within the square brackets were substituted for the words “make an offer of payment by s. 6(1) West Bengal Estates Acquisition (Amendment) Act ,1964 (West Ben. Ct XXII of 1964).

³The words within the square brackets were substituted with retrospective effect for the words”the date of the offer of payment under this sub-section” by s. 8(i) of the West Bengal Estates Acquisition (Amendment) Act 1963 (West Ben. Act XXII of 1963).

⁴These proviso were added with retrospective effect by s. 8(ii) , ibid.

⁵Sub-section (1A) was inserted by s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act 1961 (West Ben. Act IX of 1961).

compensation payable for the estates or interests vesting in the State less such amount , if any , as may have been paid under the provisions of sub-section (4) of section 12, before depositing the amount of compensation with the Collector under section 24.

(2)¹[Subject to the provisions of section 12 and sub-section (3) of section 26 , all sum payable] as compensation to an intermediary shall be paid in the manner following , that is to say :

(a) Payment in cash shall be made in accordance with the following table; namely : -----

Table

Net income.	Payment to be made in cash.
For the first Rs. 250 or less of the net income.	100 per centum of the amount of Compensation payable in respect of such Net income.
For the next Rs. 250 or less of the net income.	50 per centum of the amount of compensation payable in respect of such net Income.
For the next Rs. 500 or less of the net income.	45 per centum of the amount of Compensation payable in respect of such net income.
For the next Rs. 2,000 or less of the net income.	40 per centum of the amount of Compensation payable in respect Of such net income.
For the next Rs. 2,000 or less of the net income.	30 per centum of the amount of Compensation payable in respect of Such net income.
For the next Rs. 25,000 or less of the net income.	25 per centum of the amount of Compensation payable in respect of Such net income.
For the next Rs.70,000 or less of the net income.	20 per centum of the amount of compensation payable in respect of such net income.
For the next Rs. 1,00,000 or less of the net income.	15 per centum of the amount of Compensation payable in respect of Such net income.
For the balance of the net income.	12 per centum of the amount of Compensation payable in respect Of such net income.

¹These words , figures and brackets within the square brackets were substituted with retrospective effect for the words “All sums payable” by s. 10(1) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

(b) The balance of the compensation shall be paid in 1[negotiable and transferable bonds of not less than fifty rupees each] carrying interest at three per centum per annum with effect from the date of issue and payable in the prescribed manner in twenty equal annual instalments² * * * * 3[and the remainder, if any, below fifty rupees , shall be paid in cash]:

Provided that the State Government may at any time pay the commuted value of the bond in one instalment.

(2) Notwithstanding⁴[anything to the contrary contained in sub-section (2), where the compensation payable to an intermediary or other person is an annuity⁵ [the Collector of the district shall make the annual payment in respect of such annuity in the prescribed manner] to the trustee or other person⁶[entitled for the time being to receive such payment]:

⁷Provided that having regard to the financial position and other circumstances of an intermediary referred to I clause (a) or clause (b) of the second proviso to sub-section (1) of section 17, the State Government may pay to such intermediary the commuted value of the annuity payable to him calculated in the prescribed manner, in one or more instalments.

¹These words within the square brackets were substituted for the words "non-negotiable bonds" by s. 8(2)(1) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

²The words "subject to any deduction from such payment of any sum which the Collector may order to be made under section 7 or any ad interim payment made under section 12 or any other sum recoverable from such compensation under section 8 or under an order of attachment" were omitted with retrospective effect by s. 10 (2) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

³These words within the square brackets were added by s. 8(2)(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁴These words within the square brackets were substituted for the words "anything contained in sub-section(2), the entire amount of the compensation in respect of any interest or portion of any interest referred to under the proviso to sub-section(1) of section 17 shall be payable in perpetual annuity bonds," by s. 10(3)(a) of the West Bengal Estates Acquisition (Amendment) Act 1961 (West Ben. Act IX of 1961).

⁵The words within the square brackets were substituted with retrospective effect for the words "such annuity shall be payable in bonds. Such bonds shall be deposited with the Collector of the district and such Collector shall make the the annual payment in respect of such bonds" by s. 6(2)(a) of the West Bengal Estates Acquisition (Amendment) Act 1964 (West Ben. Act XXII of 1964).

⁶These words within the square brackets were substituted for the words "entitled to the management of such interest or the portion of such interest" by s. 10(3)(b) of the West Bengal Estates Acquisition (Amendment) Act ,1961 (West Ben. Act IX of 1961).

⁷ This proviso was added by s. 6(2)(b) of the West Bengal Estates Acquisition (Amendment) Act 1964(West Ben. Act XXII of 1964).

compensation due
persons incompetent
to alienate.

24. If any intermediary entitled to receive such compensation in respect of any interest be a person incompetent to alienate such interest, the Compensation Officer shall keep the amount of compensation payable for such interest whether in cash or bonds, [after deducting there from any amount recoverable under section 7,] in deposit with the Collector of the district and such Collector shall arrange to invest the cash and the income from the bonds in the purchase of such Government or other approved securities such Collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interest if it had not vested in the State and such bonds and securities shall remain so deposited until they are made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing in this section shall affect the right of a ²* * * limited owner to receive the whole or any part of such compensation in circumstances where such ²* * * limited owner would be entitled under the law to spend the corpus of the interest :

Provided further that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation made under this Act to pay the same to the person lawfully entitled hereto.

retain restrictions as
compensation.

25. (1) ³[No intermediary] shall be entitled to receive on account of compensation any amount in excess of the amount calculated on his total net income from all his interest held by Him within the State at the rate specified in the table contained in section 17.

- (2) The Compensation Officer shall, before making any payment under section 23 of any compensation payable in terms of a Compensation Assessment Roll ⁴[ascertain from the intermediary in the prescribed manner if any amount has already been paid to him on account of compensation and, if so, shall, by order] adjust the payment by making any deduction he considers necessary :

¹These words and figure within square brackets were inserted with retrospective effect by s. 7 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

²The words "Hindu widow or other" were omitted by s. 11 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³These words within the square brackets were substituted for the words "Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment Roll as finally published under section 21 but subject always to the provisions of Chapter IV, no intermediary" by s. 12(1) *ibid*.

⁴These words within the square brackets were substituted for the words "prepared for any notified area, ascertain from such intermediary, in the prescribed manner if any amount has been paid to him on account of compensation in respect of any other notified area and" by s. 12(2), *ibid*.

Provided that _____

- (a) no such deduction shall be made until a reasonable notice has been given to the intermediary to appear and be heard in the matter : and
- (b) any such order for deduction shall be subject to appeal in the manner provided under section 20.

¹(3) If any intermediary having estates and interests in an area or areas other than the one in respect of which his Compensation Assessment Roll has been prepared and published does not submit a statement under clause (b) of sub-section (1) of section 15 or does not include in such a statement filed by him full and correct details regarding all his estates and interests and the income therefrom, with a view to getting higher compensation than what is admissible under the provisions of subsection (1), the State Government may, by order made in this behalf, direct that such intermediary shall forfeit the whole or such part of the compensation payable to him as may be specified in the order.

²(3) If an intermediary executes any instrument purporting to transfer any khas land which he has not retined under sub-section (1) of section 6 to any person and puts such person in possession of such land at any time before the payment of the compensation under section 23 to him, then without prejudice to its right to revover possession of such land from such person, the State Government may, be order made in this behalf, direct that such intermediary shall forfeit such part of the compensation payable to him as may be specified in the order.

²(3B) An appeal against any order of forfeiture passed under sub-section (3) or sub-section (3A) , if preferred within sixty days of such order, shall lie to a Special Judge ,being a person who is or has been a District Judge or an Additional District Judge, appointed by the State Government for the purpose of hearing appeals under this sub-section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

¹(4) If, in any case, it is found that the amount of compensation paid to an intermediary is in excdcess of what is payable to him under the provisions of this Act, the excess amount so paid shall be adjusted against future instalments, if any, so payable to him , and, if no, such adjustment is possible , may be recovered from the intermediary as a public demand.

¹Sub-section (3) and (4) were inserted by s. 16 of the West Bengal Estates Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960.)

²Sub-section (3A) and (3B) wee inserted with retrospective effect by s. 8 of the West Bengal Estates Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

(Chapter III. ___Assessment and payment of compensation section 26.)

ent of recovery of
compensation money
by attachment.

26. (1) ¹[Save as otherwise provided in the proviso to sub-section (1) of section 7 ²(or the proviso to sub-section (7) of section 10), no portion] of the compensation payable to any intermediary in terms of any Compensation assessment Roll finally published under section 21, in excess of fifty per centum thereof shall _____
- (a) be liable to attachment at any one time in execution made under section 7, or
- (b) be liable to attachment at any one time in execution of decrees including decrees for arrears of rent.
- (2) Where there are several orders of attachment and the aggregate of the sums to be attached under such orders exceeds the limit referred to in sub-section (1), the orders shall be enforceable to the extent of such limit and the priority amongst them shall be decided, as far as practicable, in accordance with the principles laid down in section 73 of the Code of Civil Procedure, 1908 :

Provided that any sum which is required to be deducted under the order of a Collector under section 7 shall have priority before any order of attachment.

³(3) Except ----

(a) in a case covered by the proviso to sub-section (1) of section 7 ⁴[or the proviso to sub-section (7) of section 10], or

(b) when the entire amount of compensation is payable in cash ⁵[under clause (a) of sub-section (2) of section 23 ⁶* * * *],

all sums to be deducted under section 7 or recoverable under an order of attachment under sub-section (1) shall be deducted from the amount of compensation payable in ⁷* * * * bonds under the provisions of clause (b) of sub-section (2) of section 23 ⁸[or from the annuity payable under sub-section (3) of that section] ⁹[, and no such sum shall be deducted from the amounts payable under sub-section (1) or sub-section (2) of section 12].

¹These words, brackets and figures within the square brackets were substituted with retrospective effect for the words "No portion" by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act. XXXV of 1955).

²The words figures and brackets within brackets were inserted by s. 3(a) of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Be. Act XXI of 1975).

³Sub-section (3) was added with retrospective effect by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1955, (West Ben. Act XXXV of 1955).

⁴The words figures and brackets within the square brackets were inserted by s. 3(b) of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975).

⁵These words, brackets and figures within the square brackets were added by s. 13 of the West Bengal Estates Acquisition (Amendment) Act, 1961, (West Bwn Act IX of 1961).

⁶The words "or as the result of any adjustment made under sub-section (1) of section 12 or the second proviso thereto" were omitted by s. 9(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964)>

⁷The word "non-negotiable" was omitted by s. 9 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Bern. Act XIX of 1961).

⁸Inserted with retrospective effect by s. 9(2) of the West Bengal Estates Acquisition (Amendment) Act, 1964, (West Ben. Act XXII of 1964).

⁹These words, brackets and figures within the square brackets were added with retrospective effect by s. 5 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act XXV of 1957).

(Chapter IV. Mines and Minerals. ---- Sestions 27-29)

**CHAPTER IV
Mines and Minerals.**

visions of Chapter IV
override other Provi-
ns of the Act.

27. The provisions of this chapter shall have effect notwithstanding anything to the contrary elsewhere in this Act.

ht of intermediaries
ectly working mines.

28. So much of the land ¹ * * * * in a notified area held by an intermediary immediately before the date of vesting ²[(including sub-soil rights therein, but excluding rights in hats bazaars not in the khas possession of the intermediary and lands comprising forest, if any)] as was comprised in or as appe5rtained to any mine which was being directly worked by him immediately before such date shall with effect from such date be deemed to have been leased by the State Government to such intermediary. The terms and conditions of such lease shall be as agreed upon between him and the State Government, or in default of agreement as may be settled by the Mines Tribunal :

Provided that all such terms and conditions shall be consistent with the provisions of any Central Act for the time being in force relating to the grant of mining leases.

subsisting leases of
ies or minerals.

29. (1) All leases of mines and minerals in a notified area granted by an intermediary and subsisting immediately before the date of vesting shall, with effect from such date , be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions ad of the subsisting lease ³[, so, however, that ---

(ai) rights in hats and bazaars not in the khas possession of the holder of the lease and lands comprising forests, if any, shall be excluded from such lease ;]

(i) in cases where the holder of the lease had not in the opinion of the State Government done any prospecting or development work before ther date of vesting,---- that he shall

¹The words “(including sub-soil rights therein)” were omitted by s, 14(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961(West Ben. Act IX of 1961).

²These words within the square brackets were inserted by s. 14(2) , ibid.

³These words within the square brackets were substituted for the words “with the additional condition” by s. 15(1), ibid.....

(Chapter IV. --- Mines and Minerals ---- Section 30.)

be allowed one year's time from the date of vesting, to begin prospecting or development work, and
¹[if, in the opinion of the State Government , he has failed to do so] the State Government shall be
entitled to terminate the lease at any time after the expiry of such period giving three months, notice in
writing, unless sufficient cause is shown to the satisfaction of the State Government;

- (ii) in other cases,--- that if the holder of the lease has developed or done any prospecting
work in respect of any part of the land I ncluded in the lease but has, in the opinion of the
State Government , failed to do any prospecting or development work within three years
from the date of vesting in respect of the remaining part of the land included in the lease,
the State Government shall be entitled to resume the whole or any portion of such
remaining part of the land together with the minerals lying there under , after giving
three months' notice in writing , but in so resuming, the State Government shall have
regard to the reasons for such failure and to the requirements, as appear to it to be
reasonable , for the future development of the mining concern of the lease :

Provided that nothing in this sub-section shall prevent any modifications being made in the terms and
conditions of the said lease consistent with the provisions of any Central Act for the time being in force
regulating the modifications of existing mining leases.

(2) Where in pursuance of additional conditions mentioned in sub-section (1), any lease of mines
and minerals is terminated by the State Government under clause (i) of sub-section (1) of any land is
resumed by the State Government under clause (ii) of that sub-section , the lessee shall be entitled to
compensation calculated in accordance with the principles laid down in section 32, as far as they are
applicable, together with an amount not exceeding what has been expended by the lessee in works or
operations connected with such lease or such resumed land included in the lease, less the value of any
assets used or employed by him in such connection taken away by him.

visions for lands 30. Where any land is deemed to have been leased by the State Government to an intermediary under
compreised in works section 28 or where a lease is deemed to have been granted by the State Government under section 29
buildings etc. to the holder of a subsisting lease, any land not included in such lease,

¹These words within the square brackets were substituted for the words,"if he fails to do so" by s. 15(2)
of the West Bengal Estates Acquisition (Amendment) Act. 1961 (West Ben. Act IX of 1961).

which vests in the State by the operation of this Act and is in the use or occupation of the lessee for purposes connected with the working of any mine or the extraction of any minerals, including the land comprised in any works, buildings, machinery, tramways, siding, roads, streets or thoroughfares, connected with such purpose, shall be deemed to have been included in such lease with effect from the date of vesting [subject to the payment of rent at the rate of rupees forty-five per 0.4047 hectare per annum unless a different amount is agreed upon between the State Government and the intermediary or the lessee.]

Compensation Officer to prepare Compensation Assessment Roll for mines and minerals in three classes of intermediaries.

31. (1) The Compensation Officer shall ²* * * * * prepare in the prescribed form and in the prescribed manner a Compensation assessment Roll showing the compensation payable for mines and minerals-----

- (a) to every intermediary in whose land [not being land deemed to have been leased under section 28 or land included in a lease referred to in section 29] there is, in the opinion of the State Government , reason to believe that there are minerals not yet Prospected or developed or partially prospected and developed and then abandoned;
- (b) to every intermediary to whom any land is deemed to have been leased under section 28;
- (c) to every intermediary , who granted a lease of mines and minerals and such lease was subsisting immediately before the date of vesting.

³* * * * *

Termination of compensation for intermediaries referred to in section 31(1)(a).

32. ⁴[(1)] In preparing the Compensation Assessment Roll for every intermediary referred to in clause (a) of sub-section (1) of section 31, the Compensation Officer shall

¹The words within the square brackets were substituted for the words “subject to the payment of such fair and equitable rent as may be agreed upon between the State Government and the intermediary or the lessee, or in default of agreement, as may be fixed by the Mines Tribunal” by s of the West Bengal Estates Acquisition (Amendment) Act, 1977 (West Ben. Act XXXVI of 1977).

²The words, “in respect of any notified area”. Were omitted by s. 17(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

³Sub-section (2) was omitted by s. 17(2) , ibid.

⁴Section 32 was re-numbered as sub-section (1) of that section, and after that sub-section, sub-section (2) was added with retrospective effect by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

¹[calculate the gross annual income] of such intermediary on the probable income out of royalty which might have been derived by the grant of lease of such land based on the opinion of ²[a Mining expert], appointed by the State Government as regards the nature, quantity and the value of the minerals likely to exist in the land and capable of being worked and developed and other matters that may be prescribed. An amount equal to five per centum of ³[such gross income] shall be deemed to be the net income of such land ; and the Compensation Officer shall determine four times such net income as the amount of compensation payable.

⁴(2) Where such intermediary as aforesaid has estates and interests for which compensation is payable under Chapter III , the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates and interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for such estates and interestedly; and the lesser of the two total amounts of compensation so calculated shall be amount of compensation payable.

termination of
compensation
interme-
daries referred

33. (1) In preparing the Compensation Assessment Roll for Every intermediary referred to in clause (b) of sub-section (1) of section 31, the Compensation Officer shall take the gross income of such intermediary to be the average annual income calculated on the basis of annual returns filed by him for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which returns have been filed; and an amount equal to five per centum of such gross income shall be deemed to be the net income from such mines.

(2) The Compensation Officer shall then determine the amount of compensation payable to the intermediary as aforesaid, after taking into consideration his net income and the opinion of a Mining Expert appointed by the State Government as regards the extent of the mining operations.

¹These words with the square brackets were substituted for the words "Calculate the probable gross annual income" by s. 16(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act. IX of 1961).

²These words within the square brackets were substituted for the words "Mining expert" by s. 16(2), *ibid.*

³These words within the square brackets were substituted for the words "such probable gross income" by s. 16(3), *ibid.*

³See foot-note 4 on page 40, *ante.*

carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that any be prescribed. Where the intermediary has no estates or interests for which he is entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under his section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals has been calculated separately ; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

ermination
Compensation
intermediaries
ferred to in section
1)(c).

34. (1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (c) of sub-section (1) of section 31, the gross income of the intermediary shall be the average annual gross income received (excluding any sum received by way of salami or premium) calculated on the basis of the annual returns filed by such intermediary for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which such returns have been filed; and the net income shall be computed by deducting from the gross income so determined the average of the income-tax payable thereon during the said period and the cost of the collection at such rates as may be prescribed.

(2) The Compensation Officer shall determine the amount of compensation payable to the intermediary as aforesaid after taking into consideration his net income, the duration of the unexpired portion of the lease, and the opinion of a Mining Expert appointed by the State Government with regard to the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed . Where the intermediary has no estates or interests for which he is entitled to compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1)

(Chapter IV. _____ Mines and Minerals,---- Sections 35, 36.)

of section 17 as if the net income has been the aggregate of the net income calculated inn respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals and had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

ference to Mines
bunal.

35. If the amount of compensation determined under sub-section (2) of section 29 , section 32 , section 33 or section 34, is not agreed to by the intermediary, the Compensation Officer shall refer the question of the determination of the amount of compensation to the Mines Tribunal.

ies Tribunal.

36. (1) The Mines Tribunal appointed for the purposes of this Chapter shall consist of a Chairman who shall be¹[a person who is or has been been a District Judge or an Additional District Judge] and another member who shall be a Mining Exlert. Both the Chairman and the Mining Expert Member shall be appointed by the State Government with the previous approval of the Cental Government.

(2) The Tribunal shall follow such prec3edure as may be prescribed.

(3) In regard to any matter of compensation referred to the Tribunal by the Compensation Officer under section 35, the Tribunal at the commencement of the proceedings before it may require the State Government and the intermediary to state what in their respective opinions is the amount of compensation payable; and in giving its decision as to the amount of compensation to be paid; the Tribunal shall follow the principles laid down in sub-sction(2) of section29, section 32 , section 33 or section 34 , as the case may be.

(4) In settling the terms and conditions of a lease by the State Government under section 28 , the Tribunal shall have power to determine the area of land to be comprised in the lease and in so doing shall have regard to the amount of land reasonably required for the future development of the mining concern and also to the provisions of section 30.

(5) If there is a difference of opinion between the Chairman and the other member in respect of any matter, the matter shall be referred to a Judge of the High Court to be nominated by the Chief Justice and the decisions of such Judge shall be binding on the Tribunal and shall be final and conclusive.

¹These words within the square brackets were substituted for the words “an officer not below the rank of a district Judge” by s. 18 of the West Bengal Estaes Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

(Chapter IV. ---- Mines and Minerals.--- Sections 37, 38.----
Chapter V. --- Preparation of Record-of-rights. ---- Section 39.)

peal against
lers of the
bunal.

37. An appeal, if presented within two months from the date of the order appealed against, shall lie against any order of the Tribunal to the High Court except in respect of matters of difference disposed Of under sub-section (5) of sction 36.

ment of
npensation
mines.

38. The provisions of sections ¹[14,15,] ²[15A] ³[17,] ⁴* 19. ⁵* ⁶[21,22,] 23, 24, and 26 shall apply mutates mutandis ir regard to the procedure of preparation of Compensation Assement Roll And the manner of payment of compensation for mines and minerals under this Chapter.

CHAPTER V.
Preparation of Record-of-rights.

paration of
ord-of-rights.

39. (1) Subject to the provisions of sub-section (4) , the State Government may, for carrying out the purposes of this Act, make an order directing----

- (a) that a record-of-rights be prepared in respect of any district, or part of a district , or
- (b) that the record -of -rights prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of any district, or part ofamdistrict be revised,

I of 1885.

By a Revenue Officer in accordance with the provisions of this Chapter and such rules as amy be made in this behalf by the State Government.

- (2) A notification in the Official Gazette of an order under sub-section (1) of this section shall be conclusive evidence that the order has been duly made.
- (3) When an order is made under sub-section (1), the Revenue Officer shakll record in the record-of-rights to be prepared or revised in pursuance of such order, such particulars as may be prescribed.

¹These figures within the square brackets wee substituted for the figure “15”, by s. 19(1) of the West Bengal Estates Acquisition (Amendment) Act, 1960,(West Ben. Act XVII of 1960).

²These figures and letter within the square brackets were inserted by s. 10(1) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. XIX of 1961).

³These figure within the squar3e brackets were inserted with retrospective effect by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act,1957 (West Ben. Act IV of 1957).

⁴The figures “18,” omitted by s. 19(2) of the West Bengal Estates Acquisition (Amendment) Act, 1960(West Ben. Act XVII of 1960).

⁵The figures and brackets “20(1),” were omitted with retrospective effect by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

⁶These figures within the square brackets were inserted byb s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act XIX of 1961).

(Chapter V.---- Preparation of record-of-rights.--- Section 40.)

¹(4) Where any proceedings in respect of the preparation of the record-of-rights have been commenced under Chapter X of the Bengal Tenancy act, 1885m before the date on which this Act comes into force and such record-of-rights has not been finally published , steps shall be taken for the completion and final publication of such record-of –rights . In taking such steps, the proceedings may be continued from the stage at which they rested on such date or may be reopened and recommenced from any earlier stages as may be decided by the Revenue Officer in his discretion having regard to the facts and circumstances of the case. The proceedings shall be in accordance with such rules as may be prescribed by the State Government. The record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter.

st Ben. Ord
57.

Explanation.----- Where before the commencement of the West Bengal estates Acquisition .I of (Amendment) Ordinance, 1957, any proceedings were reopened or recommenced by any Revenue Officer , such proceedings,----

- (i) shall not be invalid merely on the ground of the proceedings being reopened and recommenced or not being in accordance with the rules prescribed under this sub-section, and
- (ii) shall be deemed to be proceedings under this sub-section.

yat paying rent
kind, etc

²40 If, in respect of a holding , a raiyat pays rent wholly in kind or partly in kind and partly in cash, the Revenue Officer shall assess as rent for thee land comprised in the holding,----

- (a) where the raiyat pays rent wholly in kind , an amount calculated at the rate of nine rupees per acre, and
- (b) where the raiyat pays rent partly in kind and partly in cash, an amount calculated at the prevailing rate of cash rent for lands of similar description and with similar advantages in nthe vicinity or at the rate of nine rupees per acre, whichever is less,

and record such rent in the record-of-rights.

Explanation :---- In this section ‘ rent in kind’ includes rent which is the cash equivalent of a specified portion o the produce.

¹Sub-section(4) was substituted for the original sub-section with retrospective effect by s. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²Section 40 was substituted for the original section with retrospective effect by s. 17 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

(Chapter V. ---- Preparation of Record-of-Rights. ----- Sections 41, 42.)

41. In preparing or revising any record-of-rights under this Chapter, the Revenue Officer shall fix in respect of any land held free of rent by a person who holds such land free or rent in consideration of some service to be rendered, a rent determined on the basis of the rent paid by raiyats or non-agricultural lands of similar description and with similar advantages in the vicinity.

42. ¹[(1)] ²[Save as otherwise provided in sub-section (2), when an intermediary is entitled] to retain possession of any land under sub-section (1) of section 6, then except in cases of land retained under clause (h) or (i) and except in the cases referred to in the proviso to sub-section (2) of section 6, the revenue Officer shall determine the rent payable in the prescribed manner and in accordance with the following principles, that is to say----

- (i) if the land be agricultural land, on the basis of the rate of rent³[paid by raiyats or other persons holding lands] of similar description and with similar advantages in the vicinity;
- (ii) if the land be non-agricultural land, at a rate which the revenue Officer may deem fair and equitable having regard to the rent generally paid for non-agricultural lands of similar description and with similar advantages in the vicinity⁴[or where such non-agricultural lands are not available in the vicinity on the rent generally paid for such non-agricultural lands cannot be readily ascertained, at such rate, not exceeding five per centum of the net annual income from the land estimated in the prescribed manner, as the Revenue Officer may deem fair and equitable];

⁵Provided that in the case of an intermediary, who immediately before the date of vesting held any tenure comprising exclusively of non-agricultural lands, he shall, subject to any law for the time being in force for assessment or re-assessment of rent,

- (a) pay the same rent as he was paying immediately before the date vesting if he retains all such lands;

¹Section 42 was re-numbered as sub-section(1) of that section by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964).

²These words within square brackets were substituted for the words "When an intermediary is entitled" by s. 10(1)9a) *ibid*.

³These words within square brackets were substituted with retrospective effect for the words "paid by raiyats for lands" by s. 18 of the West Bengal Estates Acquisition (Amendment) Act 1961 (West Ben. Act IX of 1961).

⁴ These words within square brackets were inserted with retrospective effect by s. 10(1)(b) of the West Bengal Estates Acquisition (Amendment) Act 1964 (West Ben Act,XXII of 1964).

⁵This proviso was added with retrospective effect by s. 6 of the West Bengal Estates Acquisition (Amendment) Act 1957 (West Ben. Act XXV of 1957).

(Chapter V. --- Preparation of Record-of-rights.---- Section 42.)

- (b) pay as rent an amount which shall bear the same proportion to the rent he was paying immediately before the date of vesting, as the area of the land retained by him bears to the area of all the lands which were comprised in the tenure if he retains only part of such lands;
- (c) pay no rent for the land retained by him if he held such land rent-free immediately before the date of vesting.

¹(2) when an intermediary is entitled to retain possession of any land comprised in a teagarden under clause (f) of sub-section (1) as read with sub-section (3) of section 6, the Revenue Officer shall determine the rent payable in respect of such land in the following manner, that is to say----

- (a) for land under cultivation of tea or covered by factories, office buildings or quarters for labourers of the tea garden, at twice the average rate of rent paid for the highest class of agricultural lands in the vicinity, subject to a maximum of Rs. 6.50 per acre.
- (b) For land under cultivation of cardamom, at Rs. 15 per acre,
- (c) For land under cultivation of any other crop, at one and a half times the average rate of rent paid for the average class of agricultural lands in the vicinity,
- (d) For land under hats or markets, at the average rate of rent paid for the highest class of agricultural lands in the vicinity, plus an amount equivalent to 50 per centum of the net profits from such hats or markets, and
- (e) For any other land, at the average rate of rent paid for the average class of agricultural lands in the vicinity.

²(3) Notwithstanding anything to the contrary contained in the proviso to sub-section(2) of section 6 of in any contract, where any land comprised in a tea-garden is held under a lease, the rent payable by the lessee in respect of such land shall be rent determined by the revenue Officer in the manner specified in sub-section (2) .

Explanation.--- In this sub-section "lease" included a lease granted directly by the State Government.

²(4) Notwithstanding anything to the contrary contained in any judgment, decree order of any court or tribunal or in any law, the rent determined under sub-section (2) or sub-section (3) shall take effect and shall be deemed always to have taken effect from the date of vesting.

¹Sub-section(2) was added by s. 10(2) of the West Bengal Estates Acquisition (Amendment) Act 1964 (West Ben. Act XXII of 1964).

²Sub-sections (3) and (4) were inserted by s. 3 of the West Bengal Estates Acquisition (Amendment) Act 1969 (West Ben. Act XXXI of 1969).

(Chapter V--- Preparation of Record-of-rights.----- Section42A-44)

termination of
it after draft
final publication
record-of-rights.

¹42A (1) If, for any reason, the rent payable in respect of any land retained by an intermediary under sub-section (1) of section 6 has not been determined before the draft or final publication of the record-of-rights under this Chapter , then, notwithstanding anything contained elsewhere in this Act, the Revenue Officer may, at any time after giving notice to the person concerned, determine the rent in accordance with the provisions of sections 40,41 and 42 and enter the rent so determined in the record-of-rights.

- (2) any person aggrieved by an order of the Revenue Officer determining rent under sub-section (1) may appeal to such authority and within such time as may be prescribed.
- (3) The decision of the Appellate Authority on such appeal shall be final and the Revenue Officer shall, if necessary , correct, in accordance with such decision, the entry relating to rent made by him in the record-of-rights.

effect of rents settled
under this Chapter.

43. All rents determined under this Chapter , and entered in the record-of-rights shall be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act ²[and shall be payable at such times and in such instalments as may be prescribed, and the period of limitation for the institution of suits relating to the recovery of arrears of rent shall be as provided in article 149 of the First Schedule to the Indian Limitation Act, 1908.] IX of 1908.

draft and final
publication of the
record-of-rights.

44. (1) When a record-of-rights has been prepared or revised ³* * , the Revenue Officer shall publish a draft of the record so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission there from during the period of such publications :

⁴Provided that no order passed under section 5A shall be liable to be reopened in pursuance of an objection made under this sub-section.

(2) When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally frame the record and cause such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation :

¹Section 42A was inserted with retrospective effect by s. 11 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

²These words and figures within square brackets were added by s. 12 *ibid*.

³The words “as afore said”were omitted with retrospective effect by s. 13(1), *ibid*.

⁴This proviso was added with retrospective effect by s. 12 of the West Bengal Estates acquisitions (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

¹* * * * *

²(2a) Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2).

³(2a) An officer specially empowered by the State Government may ⁴[on application within nine months, or of his own motion within ⁵(fifty years,)] from the date of final publication of the record-of-rights or from the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Act, Ordinance, 1957, whichever is later, revise an entry in the record finally published in accordance with the provisions of sub-section (2) after giving the persons interested an opportunity of being heard and after recording reasons therefore :

Provided that nothing in the foregoing paragraph shall be deemed to empower such officer to modify or cancel any order passed under section 5A, while revision any entry :

Provided further that no such officer shall entertain any application under this sub-section or shall of his own motion take steps to revise any entry, if an appeal against an order passed by a Revenue Officer on any objection made under sub-section (1), has been filed before the commencement of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, before a Tribunal appointed for the purpose of this section , and, notwithstanding anything in this section, any such appeal may continue and be heard and disposed of as if the West Bengal Estates Acquisition (Second Amendment) Act, Ordinance , 1957, has not been promulgated.

¹The proviso to sub-section (2) was omitted by s. 13(2) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

²Sub-section (2a) was inserted with retrospective effect by s. 19(2) of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³Sub-section (2a) was inserted with retrospective effect by s. 7(a) of the West Bengal Estates Acquisition (Second Amendment) Act, 1957 (West Ben. Act XXV of 1957).

⁴These words within the square brackets were substituted with retrospective effect for the words “on application or of his own motion, within nine months” by s, 13(3) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁵These words within the square brackets “nine years” were substituted for the words “six years” by s. 9 of the West Bengal Estates Acquisition (Amendment) Act, 1963(West Ben. Act XXII of 1963), the words “twelve years” were substituted for the words “nine years” by s. of the West Bengal Estates Acquisition (Amendment) Act, 1967, (West Ben. Act IX of 1967), the words “fifteen years” were substituted for the words “twelve years” by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1969 (West Ben. Act XXXI of 1969), the words “eighteen years” were substituted for the words “fifteen years” by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1973 (West Ben. Act I of 1973), the words “twenty –one years” were substituted for the words “eighteen years” by s. 4 of the West Bengal Estates Acquisition (Amendment) Act, 1975 (West Ben. Act XXI of 1975), the words “twenty-five years” were substituted for the words “twenty-one years” by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1978 (West Ben. Act XXII of 1978), the words “thirty years” were substituted for the words “twenty –five years” by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1982 (West Ben. Act XX of 1982), the words “thirty-five years” were substituted for the words “thirty years” by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1987(West Ben. Act XI of 1987), the words “forty years” were substituted for the words “thirty years” by s. 2 of the West Bengal Estates Acquisition (Amendment) Act, 1992 (West Ben. Act 1992), and the words “fifty years” were substituted for the words “forty years” by s 2. of the West Bengal Estates Acquisition (Amendment) Act, 1997 (West Ben. Act XX of 1997).

st Ben..
IX of 1957

(2) Any person aggrieved by an order passed 1[in revision under subsection (2a) may appeal in the prescribed manner to a Tribunal appointed for the purpose of this section, and within such period2[and on payment of such court fees] as may be prescribed.

³(3a) The certificate of final publication referred to I sub-section (2), or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which he record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proff of such publication and of the date thereof.

³(3b) The State Government may, by notification , declare with regard to any specified area, that a record-of-rights has been finally published for every village included in such area and such notification shall be conclusive proof of such publication.

³(3c) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom , is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

⁴(4) Every entry in the record-of-rights finally published under sub-section(2) including an entry revised under sub-section (2a) ⁵[,made under section 42A]or corrected under section 45 or section 45A shall, subject to any modification by an order on appeal under sub-section(3), be presumed to be correct 6* * * * *

¹These words within the square brackets were substituted with retrospective effect for the words “by a Revenue Officer on any objection made under sub-section (1)”by s. 7(b) of the West Bengal Estates Acquisition Act, 1957 (West Ben. Ac XXV of 1957).

²these words within the squae brackes were inserted with retrospective effect by s. 13(1) of the West Bengal Estates Acquisition Act, 1957 (West Ben. Act. IV of 1957).

³Sub-section (3a) ,(3b) and (3c) were inserted with retrospective effect by s. 13(2) , ibid.

⁴Sub-section (4) was substituted with retrospective effect for the original sub-section by s. 7(c) of the West Bengal Estates Ac1quisition (Second Amendment) Act, 1957 (West Ben. ActXXV of 1957).

⁵The words , figures and letter within the square brackets were inserted with retrospective effect by s. 13(4) of the West Bengal Estates Acquisition (Second Amendment) Act, 1961 (West Ben. Act XIX of 1961).

⁶This words “until it is proved by evidence to be incorrect” were omitted by s. 3 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).

rection of bona fide
stakes in record-of-
rights.

45. Any Revenue Officer specially ¹empowered by the State Government in this behalf may, on application ²[within one year, or of his own motion ³(within nine years)] from the date of Certificate of the final publication of the record-of-rights under sub-section (2) of section 44 , correct any entry in such record-of-rights which he is satisfied has been made owing to a bonafide mistake:

Provided that no such correction shall be made if an appeal affecting such entry has been presented under sub-section (3) of section 44 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

⁴**45A.** Any revenue Officer specially ⁵empowered by the State Government in this behalf may correct any entry in any record-of-rights if it is necessary in his opinion to do so ⁶[in pursuance of an order under section 5A or] on account of any amendment made in nthe provisions of this Act or the rules made thereunder:

Provided that no such correction shall ⁷[, except whrer it is made in pursuance of an order under section 5A] be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

46. [*Bar to jurisdiction of civil Court in respect of certain matters.*]--- omitted by the *Wes Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Ben. Act XXXIII of 1973).*]

¹For Notification empowering certain officers specially to make corrections in the record-of-rights in respect of lands in the districts of Cooch Behar, Jalpaiguri and Darjeeling, see Notification No. 7462L Ref., dated 3.4.57 , published in the Calcutta Gazette of 1957, Part I page 1475.

²These words within the square brackets were substituted with retrospective effect for the words”or of his own motion within one year” by s. 20 of the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Ben. Act IX of 1961).

³Thesewords within the first brackets “were substituted for the words “within five years”by s. 10 of the West Bengal Estates Acquisition (Amendment) Act, 1963,(West Ben. Act XXII of 1963).

⁴This new section 45A was inserted with retrospective effect by s. 14 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IC of 1957).

⁵For Notification especially empowering cetain officers to make corrections in the record-fo-rights prepared in respect of lands in the districts of Cooch Behar , Jalpaijuri and Darjeeling, see Notification NO. 17212L .Ref., dated 6.9.57 , published in the Calcutta Gazette of 1957, Part I page 3337, s subsequently amended.

⁶these words, figure and letter within the square brackets were inserted by s. 21(1) of the West Bengal Estates Acquisition (Amendment) Act,1961 (West Ben. Act IX of 1961).

⁷These words , figure and letter within the square brackets were inserted by s. 21(2) , ibid.

(Chapter V. Preparation of Record-of-rights. --- Sections 47,48 ---
Chapter VI.--- Acquisition of interests of raiyars and under-raiyats.
---- Section 49, 50.)

dification of the
ally published
ord-of-rights.

47. The record-of-rights prepared and finally published under the provisions of this Chapter or deemed to have been so prepared and finally published, for any district or part of a district in respect of which a notification under section 4 has been duly published, shall as soon as may be after the date of vesting be modified by eliminating therefrom all the interests of the intermediaries which have vested in the State and showing therein only the tenants who hold directly under the State as a result of vesting of such interests in the State. One or more numbers to be borne on the revenue roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the State Government may make in this behalf and the Revenue Officer shall make a certificate that the record-of-rights has been so modified and shall date and subscribe the same under his name and official designation.

Provided that entries in record-of-rights eliminated under the foregoing paragraph shall be deemed to be in force for the purpose of the preparation of the Compensation Assessment Roll and for all proceedings connected therewith or arising therefrom.

ts of preparation
record-of-rights.

48. The cost of preparation of record-of-rights prepared or deemed to have been prepared under this Chapter shall be borne by the State Government.

CHAPTER VI.

1[Acquisition of interests of raiyats and under-raiyats.]

en this Chapter is
come into force.

249 The provisions of this Chapter shall come into force on such date and in such district or part of a district as the State Government may, by notification in the Official Gazette, appoint and for this purpose different dates may be appointed for different districts or parts of districts.

50 [(Certain persons to be deemed to be intermediaries.) Omitted with retrospective effect by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).]

¹This heading was substituted with retrospective effect for the original heading by s. 13 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²Section 49 was substituted with retrospective effect for the original section by s. 14, *ibid.*

³This chapter came into force in all the districts of West Bengal with effect from the 10th day of April, 1956, vide notification NO. 6804L. Ref., dated 9th April 1956 of the Land and Land Revenue Department, published in the Calcutta Gazette, Extraordinary, of the 9th April, 1956, Part I, page 743.

(Chapter VI. --- Acquisition of raiyats and under-raiyats.--- Section 51, 52.)

51. [(Notification vesting certain khas lands and rent-receiving interests.) Omitted with retrospective effect by s. 15 of the West Bengal estates Acquisition (Amendment) Act. 1955 (West Ben. Act. XXXV of 1955).]

Application of Chapters II, III, V and VII 1 52. ON the issue of a notification under section 49 the provisions of Chapters II, III, V and VII shall, with such modification as may be necessary, apply mutates mutandis to raiyats and under-raiyats.

Under-raiyats as if such raiyats were intermediaries and the land held by them were estates and a person holding under a raiyat or an under-raiyats were a raiyat for the purposes of clauses (c) and (d) of section 5:

²Provided that, where a raiyat or an under-raiyat retains, under section 6 read with this section, any land comprised in a holding, then notwithstanding anything to the contrary contained in sub-section (2) of section 6, he shall pay,---

- (a) in cases where he was paying rent for the lands comprised in the holding and held by him immediately before the date of vesting (hereafter in this proviso referred to as the holding lands),
 - (i) if he retains all the holding lands, the same rent as he was paying therefore immediately before the date of vesting and
 - (ii) if the land retained by him forms part of the holding lands, such rent as bears the same proportion to the rent which he was paying for the holding lands immediately before the date of vesting as the area of the land retained by him bears to the area of all the holding lands;
- (b) in cases where he was liable to pay rent but was not paying any rent for the holding lands immediately before the date of vesting on the ground that the rent payable by him therefore was not assessed, such rent as may be assessed, mutates mutandis, in accordance with the ³[provisions of section 42; 3*];

¹Section 52 was substituted for the former section with retrospective effect by s. 16 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Ben. Act XXXV of 1955).

²This proviso was originally added with retrospective effect by s. 15 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957), and thereafter this proviso was substituted with retrospective effect for the proviso originally added by s. 22 the West Bengal Estates Acquisition (Amendment) Act, 1961, (West Ben. Act IX of 1961).

³The words and figures "provisions of section 42; and" were substituted for the words "Provisions of section 42," by s. 11(i) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act XXII of 1963), and thereafter the word "and" at the end was omitted by s. 11(1) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben. Act XXII of 1964.)

¹(c) in case where he was liable to pay rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in clause (c) of section 5 such rent as may be assessed in accordance with the provisions of section 40; and]

³(d) in cases where he was liable immediately before the date of vesting to pay for the holding lands a variable cash rent periodically assessed, such rent as may be assessed, mutates mutandis, in accordance with the provisions of section 42.

CHAPTER VII.
Supplemental and Miscellaneous

53 ⁴ [(1)] There shall be the following authorities for the purposes of this Act, namely :---

- (a) The Board of Revenue;
- (b) Director of Land Records and Surveys;
- (c) Settlement Officers ;
- (d) Assistant Settlement Officers;
- (e) Compensation Officers;
- (f) Revenue Officers;

⁵(ff) Officers appointed by the State Government for the purposes of sub-clause (iv) of clause (a) sub-section (1) of section –16;

- (g) Mining Experts for the purposes of sections 32,33 or 34.

⁴(2) The State Government may ⁶ appoint any person as a Compensation Officer or a Revenue Officer or may vest any officer with the powers of a Compensation Officer or a Revenue Officer under this Act.

¹Clause (c) was added by s. 11 (ii) of the West Bengal Estates Acquisition (Amendment) Act, 1963 (West Ben. Act, XXII of 1963).

²These words and figures within the square brackets were substituted for the words “provisions of section 40” by s. 11(2) of the West Bengal Estates Acquisition (Amendment) Act, 1964 (West Ben Act XXII of 1964).

³Clause (d) was added with retrospective effect by s. 121(3), *ibid.*

⁴Section 53 was re-numbered as sub-section (1) of that section, and after that sub-section, sub-section (2) was added by s. 20 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁵Clause (ff) was inserted by s.14 of the West Bengal Estates Acquisition (Second Amendment) Act, 1961, (West Ben. Act XIX of 1961).

⁶For notification vesting certain officers with the powers of a Compensation Officer under the Act, see notification NO. 17086L.Ref., dated 18.11.60, published in the Calcutta Gazette, Extraordinary of 1960, Part I page 3031.

delegation of powers
of the State Govern-
ment and powers and
of the authorities.

54. (1) The State Government may, by ¹notification in the Official Gazette, delegate any of the powers under this Act, except the power of making rules under section 59, to the Board of Revenue ²[the Commissioner of a Divisions or a Collector] subject to such reservations, if any, as may be specified in the notification.
(2) all authorities referred to in section 53 shall exercise such powers and perform such duties under this Act or any rules made thereunder as may be conferred or imposed on them.

Appointment of
Additional District Judges
and Tribunals.

³**55** (1) The State Government may ⁴appoint a person who is or has been a District Judge or an Additional district Judge to be a Special Judge for the purpose of section 11 of section 20.
(2) The State Government may ⁵constitute one or more Tribunals for the purpose of section 44. Such tribunal shall be composed of a single member who shall be ⁶[a person who is or has been] a district Judge ⁷[or an additional District Judge] and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908.

Section 5 of 1908.
Section 12 of 1908.

⁸**55A.** The provisions of section 5 and 12 of the Indian Limitation act 1908, shall to any appeal or application under this Act.

Notification.

¹For notification relating to -----

- (a) authorisation of authority and certain officers to sanction ad interim payments under the ² proviso to s. 12(1) of the Act to intermediary up to the amount specified, subject to certain conditions, see notification No. 576L Ref., dated 9.1.59, published in the Calcutta Gazette of 1959, Part I, page 384, as subsequently amended.
- (b) Appointment of certain officers as Revenue Officers for the purpose of the Act in respect of their respective jurisdictions, see notification No. 19602L Ref., dated 16.12.60, published in the Calcutta Gazette of 1960, Part I, page 4072.

²These words within the square brackets were inserted by s. 2 of the West Bengal Estates Acquisition (Second amendment) Act, 1958, (West Ben. Act XXV of 1958).

³Sub-section (1) was substituted for the previous sub-section by s. 21(1) of the West Bengal Estates Acquisition (amendment) Act, 1960, (West Ben. Act XVII of 1960).

⁴For notification relating to appointment of certain officers to be Special Judges appointed for the purpose of section 20 of the Act in respect of the districts specified, see notification NO. 8316L. Ref., dated 7.5.57 published in the Calcutta Gazette of 1957, Part I page 1636.

⁵For notification relating to appointment of----

- (a) a tribunal for the purpose of section 44 of the act in respect of the districts of Mindapore, 24-Pargans, Burdwan, Jalpaiguri and Malda, see notification No. 13464L. Ref., dated 15.7.55, published in the Calcutta Gazette of 1955, Part I page 2898, as subsequently amended.
- (b) A Tribunal for the purpose of section 44 of the Act in respect of each of the districts specified, see notification no 18504L. Ref., dated 22.9.55, published in the Calcutta Gazette of 1955, Part I, Page 4118, as subsequently amended.
- (c) The additional District Judge, Midnapore, see notification No.6676L. Ref., dated 11.4.57, published in the Calcutta Gazette of 1957, Part I, page 1340.

⁶These words within the square brackets were substituted for the words "an officer not below the rank of" by s.21(2) of the West Bengal Estates Acquisition (amendment) Act, 1960 (West Ben. Act XVII of 1960).

⁷These words within the square brackets were inserted with retrospective effect by s. 17 of the West Bengal Estates Acquisition (amendment) Act, 1955 (West Ben. Act XXXV of 1955).

⁸This new section 55A was inserted by s. 22 of the West Bengal Estates Acquisition (amendment) Act, 1960 (West Ben. Act XVII of 1960).

ver to enter upon id, to make survey, .
56. A revenue Officer, subject to any rules made under this Act, may, at any time giving previous notice, enter upon any land with such officers or other persons as he considers necessary, and make a survey of the land or take measurements thereof or do any other acts which he considers t be necessary for carrying out any of his duties under this Act or any rules made there under.

ver to compel duction of tements and uments and orce attenda- e of witnesses.
57. (1) Subject to any rules made under this Act, a Revenue Officer may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any interest whatsoever in any land at a time pr place specified in the notice.

XLV of 1860.
(2) Every person required to make or deliver a statement or produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

(3) For the purposes of an inquiry under this Act a Revenue Officer shall have power to summon and enforce the attendance of witnesses or of any person hving any interest whatsoever in any land and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procudure, 1908.

V of 1908.

ver of State vrnment to est certain horities a Civil court.
57A The State Government may by ²order invest any authority referred to in section 53 with all or any of the powers of a civil Court under the Code of Civil Procedure, 1908.

to jurisdiction Civil Court in pect of certain ters.
57B (1) Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a frecord-of-rights, no Civil Court shall entertain any suit or Application for the determination or rent or determination of the status of any tenant Or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application , in which any of the aforesaid matters, is in issue, is pending before a Civil Court on the date of such order, it shall be stayed, and it shall , on the expiry of the period prescribed for an appeal under sub-section (3) of section 44 or when an appeal has been filed under that sub-section , as the case may be , on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.

¹This new section 57A was inserted with retrospective effect by s. 16 of the West Bengal Estates Acquisition (Amendment) Act, 1957 (West Ben. Act IV of 1957).

²For notification investing-

- (a) all Compensation Officers withy the powers of a Civil Court under ss. 30,31 and 32 of the Code of Civil Procedure, 1908, see notification No. 19622L. Ref., dated 25.10.57, published in the Calcutta Gazette of 1957, Part I, page 3930
- (b) all Settlement , Assistant Settlement and Revenue Officers with all the powers of a Civil Court under the Code of Civil Procedure ,1908, see notification NO. 340L. Ref., dated 9.1.58, published in the Calcutta Gazette of 1958, Part I, page 191.

³Section 57B was inserted by s. 5 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973(West Ben. Act XXXIII of 1973).

(Chapter VII. ---- Supplemental and Miscellaneous. ----- Section 58.)

(2) No Civil Court entertain any suit or application concerning any land or any estate, or any right in such estate, if it relates to---

- (a) alteration of any entry in the record-of-rights finally published, revised, made, corrected or modified under any of the provisions of Chapter V,
- (b) a dispute involving determination of the question, either expressly or by implication, whether a raiyat, or an intermediary, is or is not entitled to retain under the provisions of this Act such land or estate or right in such estate, as the case may be, or
- (c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, dealt with or determined by the State Government or any authority specified therein.

West Ben. Act XIII of 1973.

and any such suit or application which is pending before a Civil Court immediately before the commencement of the West Bengal Estates Acquisition (Second Amendment) Act, 1973, shall abate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).

- (4) any dispute referred to in clause (b) of sub-section (2) may be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed:

Provided that in deciding a dispute under this sub-section the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

- (5) Any person aggrieved by a decision of the Revenue Officer made under sub-section (3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such time, in such manner and subject to payment of such fees as may be prescribed.
- (6) A decision made by an Appellate Authority under sub-section (4) shall be final.

Explanation.----In this section,-----

- (i) suit includes an appeal, and
- (ii) an authority includes an authority to hear an appeal.

protection of person taken under the Act.

58. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

*(Chapter VII.--- Supplemental and Micellaneous. --- Section 59.---
Chapter VIII.--- Application of the Act to ansferred territories .--- Sections 60,61).*

(2) Save as otherwise expressly provided under this Act , no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or any rules made there under of by anything in good faith done or intended to be done in pursuance of this Act or any rules made there under.

ver to make rules. **59.** (1) The State Government may, after previous publication, make rules for carrying out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules¹ may provide for all or any of the matters which, under any provisions of this Act, are required to be prescribed or to be provided for by rules.

**²CHAPTER VIII.
Application of the Act to transferred territotries.**

en this Chapter **60.** The provisions of this Chapter shall come into ³force on such date and in such area of the
o come into force. transferred territories as the State Government may, by notification in the in the Official Gazette
Appoint, and for this purpose different dates may be appointed for different areas.

Explanation.--- In this Chapter 'transferred territories' means the territories transferred from the State of Bihar to the State of West Bengal by section 3 of the Bihar and West Bengal (Transfer of Territories) Act 1956.

of 1956
plication of the **61.** On the issue of a notification under section 60, in the area in respect of which such notification is
to transferred issued,----
ritories.

ar Act 30 of 1950. (1) the Bihar Land Reforms Act, 1950, shall stand repealed and the provisions of the foregoing Chapter
of this Act shall, mutates mutandis apply :

I of 1885. Provided that any reference in the foregoing Chapters of this Act to the Bengal Tenency Act, 1885 , or
any provisions thereof shall, as the case may be, be construed as a reference,----

¹For rules made in exercise of the power conferred by this section, see notification No. 8074 L.,Ref., dated the 28th May, 1954 of the Land and Land Revenue Department, published in the Calcutta Gazette , extraordinaty, dated the 28th Many., 1954, Part I, pages 741-769, as subsequently amended from time to time.

²Chapter VIII containing ss. 60 and 61 was added by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1963 (West Ben. Act XL of 1963).

³This Chapter was brought into force in all areas of the territories transferred from the State of Bihar t to the State of West Bengal under the Bihar and West Bengal (Transfer of Territories) Act, 1956 (Act 40 of 1957) with effect from the 1st day of March , 1964. vide notification No. 2672-L. ref., dated the 17th February ,m 1964, published in the Calcutta Gazette , Extraordinary, dated the 17th February, 1964, Part I, page 407.

(Chapter VIII. --- Application of the Act to transferred territories . --- Section 61.)

- 1 Act VI of 1908. (i) in the case of application of such Chapters to the area comprised in the district of Purulia , to the Chota Nagpur Tenancy Act, 1908, or the corresponding provisions thereof, and
- I of 1885. (ii) in the case of application of such Chapters to any other area of the transferred territories , - -- to the Bihar tenancy Act, 1885, or the corresponding provision thereof;
- ar Act 30 of 1950. (2) estates or interests vested in the State Government under the provisions of the Bihar Land Reform Act , 1950, prior to the date of issue of the notification shall be deemed to have vested in the State Government under the provisions of this act :

Provided that---

- (i) no intermediary shall be allowed to retain any land other than, or in excess of, what is permitted under the provisions of section 6 or any other provision of this Act:
- (ii) any land or interest which has vested in the State Government under the provisions of the Bihar Land Reforms Act, 1950, but which the ex-intermediary shall be entitled to retain under the provisions of this Act sha., if possible, be restored to him and no compensation shall be payable for any land or interest so rest9red;
- (iii) assessment of compensation already made or in progress on or before the date of issue of the notification shall be reopened and assessment of compensation for all lands and interests vested or deemed to have been vested in the State government under this Act shall be made afresh under the provisions of this Act;
- ¹(iv) if an intermediary has possessed any land other than, or in excess of, what is permitted under the provisions of section 6 of any other provision of this Act, he shall be liable to pay to the State Government for the period for which he has continued in possession of such land after his estate or interest vested in the State Government, such damages for use and occupation of such land as shall be calculated at the rate of Rs. 10 per acre per annum;
- ¹(v) any sum payable by an intermediary as damanges under clause (iv) shall be recoverable as a public demand.

¹Clauses (iv) and (v) were added by s. 3 of the West Bengal Estates Acquisition (Amendment) Act, 1966 (West Ben. Act XIV of 1966).