

ORISSA REGULATION No. 2 OF 1956

**THE ORISSA SCHEDULED AREAS TRANSFER OF IMMOVABLE
PROPERTY (BY SCHEDULED TRIBES) REGULATION,
1956**

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IMMOVABLE PROPERTY (BY SCHEDULED
TRIBES) REGULATION, 1956

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A
REGULATION

TO CONTROL AND CHECK TRANSFERS OF IMMOVABLE
 PROPERTY IN THE SCHEDULED AREAS OF THE STATE
 OF ORISSA BY SCHEDULED TRIBES

WHEREAS it is expedient to control and check trans-
 fers of immovable property by the Scheduled
 Tribes in the Scheduled Areas of the State of Orissa ;

NOW, THEREFORE, in exercise of the powers
 conferred by sub-paragraph (2) of paragraph 5 of the
 Fifth Schedule to the Constitution, the Governor of
 Orissa is pleased to promulgate the following Regu-
 lation made by him in the Seventh Year of the
 Republic of India :—

Short title,
 extent and
 commence-
 ment.

1. (1) This Regulation may be called the Orissa
 Scheduled Areas Transfer of Immovable Property (By
 Scheduled Tribes) Regulation, 1956.

(2) It extends to all the Scheduled Areas of the
 State of Orissa ;

(3) It shall come into force at once.

Definitions

2. In this Regulation unless there is anything
 repugnant in the subject or context—

(a) "competent authority" means the Collector
 and includes any other officer or officers appointed by
 the State Government by notification to perform all
 or any of the functions of a competent authority
 under this Regulation ;

(b) "grama sabha" means a grama sabha
 established under section 5 of the Orissa Grama
 Panchayats Act, 1948 ;

Orissa Act
 XV of 1956

(c) "immovable property" does not include standing timber, growing crops or grass;

(d) "prescribed" means prescribed by rules made under this Regulation;

(e) "Scheduled Areas" and "Scheduled Tribes" shall respectively mean the Scheduled Areas specified in respect of the State of Orissa in the Scheduled Areas (Part A States) Order, 1950 and the "Scheduled Tribes" specified in respect of the State of Orissa in the Constitution (Scheduled Tribes) Order, 1950;

(f) "Transfer of immovable property" means mortgage with or without possession, lease, sale, gift, exchange or any other dealings with such property not being a testamentary disposition and includes a charge or contract relating to such property.

Transfer of
immovable
property by
a member of
the
Scheduled
Tribe.

3. (1) Notwithstanding anything contained in any law for the time being in force any transfer of immovable property situated within a Scheduled Area, by a member of a Scheduled Tribe shall be absolutely null and void and of no force or effect whatsoever unless made in favour of another member of a Scheduled Tribe or with the previous consent in writing of the competent authority.

(2) Where a transfer of immovable property is made in contravention of sub-section (1) the competent authority may, either on application by any one interested therein or on his own motion and after giving the parties an opportunity of being heard, order ejection against any person in possession of the property claiming under the transfer and shall cause restoration of possession of such property to the transferor or his heirs. In causing such restoration of possession the competent authority may take such steps as may be necessary for securing compliance with the said order or preventing any breach of peace:

Provided that if the competent authority is of opinion that the restoration of possession of immovable property to the transferor or his heirs is not reasonably practicable, he shall record his reasons therefor and intimate his decision to the Grama Sabha having jurisdiction and on and from the date of such intimation the property shall be in charge of the said Grama Sabha which may in consultation with the Anchal Sasan, if any, having jurisdiction and constituted under the Orissa Anchal Sasan Act, 1955, settle the said property with another member of a

Scheduled Tribe or in the absence of such member with any other person on such terms and conditions as it may deem proper :

Provided further where there is no such Grama Sabha in which the immovable property may be vested, the competent authority shall, subject to the control of the State Government, settle the said property in such manner as is hereinbefore specified;

(3) Subject to such conditions as may be prescribed an appeal if preferred within thirty days of the date of the order under sub-section (2) shall, if made by the Collector lie to the Board of Revenue and if made by any other competent authority to the Collector or any other officer specially empowered by the State Government in this behalf.

(4) Subject to the provisions of sub-section (3) the decision of the competent authority under sub-section (2) shall be final and shall not be challenged in a Court of law.

Inadmissibility of a deed for the purpose of registration.

4. Notwithstanding anything contained in the Indian Registration Act, 1908, no deed of transfer of XVI of 1908 any immovable property executed in contravention of the provisions of this Regulation shall be accepted for registration.

Surrender or relinquishment not valid unless settled by the landlord.

5. (1) No surrender or relinquishment of any holding or a part of a holding by a tenant to a landlord under any law for the time being in force and applicable to such tenancy, such tenant being a member of a Scheduled Tribe, shall be valid unless after such surrender or relinquishment the landlord thereof by whatever name called either settles the said holding or part of the holding as the case may be, with another member of a Scheduled Tribe or else retains it in his possession or settles it with any other person with the approval of the competent authority when such member of a Scheduled Tribe is not available.

(2) Any surrender or relinquishment shall be deemed to be a transfer of immovable property within the meaning of this Regulation and except as otherwise provided in sub-section (1) the other provisions of this Regulation shall, so far as may be, apply.

(3) Nothing in this section shall apply to any tenant holding immediately under the State Government.

Bar to attachment of immovable property.

6. In execution of a money-decree against a member of a Scheduled Tribe, no right, title or interest held by him in any immovable property within any Scheduled Area shall be liable to be attached and sold except as and if prescribed.

Penalty and
burden of
proof.

7. (1) If after the commencement of this Regulation, any person who is not a member of a Scheduled Tribe is found to be in possession of any immovable property in contravention of the provisions of this Regulation, such person shall, without prejudice to his liability to ejection under sub-section (2) of section 3, be also liable to a penalty for an amount not exceeding one hundred rupees per acre of such immovable property for each year or any part thereof during which his unlawful possession continues. Such penalty may be imposed by the competent authority ordering ejection under sub-section (2) of section 3 and shall be recoverable as an arrear of land revenue.

(2) If in any proceedings under this Regulation the validity of the transfer or relinquishment of immovable property is called in question, the burden of proving that such transfer or relinquishment was valid shall, notwithstanding anything in any other law for the time being in force, lie on the transferee.

Rules

8. (1) The State Government may from time to time make rules consistent with the provisions of this Regulation to carry out the purposes thereof.

(2) All rules made under this section shall be published in the Gazette and on such publication shall have the effect as if enacted under this Regulation.

Repeal

9. (1) On and from the date of commencement of this Regulation the following shall stand repealed, namely :—

(a) The Agency Tracts Interest and Land Transfer Act, 1917.

Madras
Act of 1
1917.

(b) The enactments mentioned in column 2 of the Schedule to the extent specified in column 3 thereof in so far as they are in force in the State of Orissa ;

(2) Notwithstanding such repeal by this Regulation the repeal shall not affect—

(a) the previous operation of such law or provisions so repealed or the validity, effect or consequence of anything done or suffered thereunder ;

(b) any right, title, privilege, obligation or liability acquired, accrued or incurred under the said law or provisions ; or

(c) any investigation, legal proceedings or remedy in respect of such right, title, privilege, obligation or liability ; or

(d) any release or discharge from any debt, penalty, obligation, liability, claim or demand ; and any such investigation, legal proceedings or remedy may be instituted, continued, or enforced and any such penalty, forfeiture of punishment may be imposed as if this Regulation had not been made.

SCHEDULE

LIST OF ENACTMENTS REPEALED

(See Section 9)

Number and Year	Short title	Extent of Repeal
1	2	3
1. Madras Act I of 1917	Agency Tracts Interest and Land Transfer Act, 1917.	The whole
2. Orissa Act IV of 1950	Orissa Merged States' (Laws) Act, 1950.	The words "subject to the restriction that no transfer of a holding from a member of an aboriginal Tribe to a member of a non-aboriginal Tribe shall be valid unless such transfer is made with the previous permission of the Subdivisional Magistrate concerned" in item 1 of clause (b) of section 7 shall be omitted.
3. Central Provinces Act XI of 1898.	Central Provinces Tenancy Act, 1898, as amended by Orissa Act XIII of 1953.	The proviso to clause (d) of sub-section (2) of section 46 shall be omitted.