

THE ORISSA LAND REFORMS (SECOND AMENDMENT) ACT, 1976**TABLE OF CONTENTS****PREAMBLE****SECTIONS**

1. Short title
2. Amendment of section 2
3. Amendment of section 23
4. Amendment of section 23-A and insertion of new section
5. Amendment of section 40-B
6. Amendment of section 42
7. Amendment of section 43
8. Insertion of new section 44-A
9. Insertion of new section 45-B
10. Amendment of section 51
11. Amendment of section 53
12. Amendment of section 57
13. Amendment of section 57-A
14. Amendment of section 58
15. Amendment of section 60
16. Amendment of section 63
17. Amendment of section 67
18. Amendment of section 68
19. Certain amendments effected by Orissa Act 29 of 1976 to have retrospective effect
20. Savings

ORISSA ACT 44 OF 1976

***THE ORISSA LAND REFORMS (SECOND AMENDMENT)
ACT, 1976**

[Received the assent of the President on the 15th October 1976, first published in an extraordinary issue of the Orissa Gazette, dated the 25th October 1976]

AN ACT TO AMEND THE ORISSA LAND REFORMS ACT, 1960

BE it enacted by the Legislature of the State of Orissa in the Twenty-seventh Year of the Republic of India, as follows:—

Short title 1. This Act may be called the Orissa Land Reforms (Second Amendment) Act, 1976.

Amendment of section 2. 2. In section 2 of the Orissa Land Reforms Act, 1960 (hereinafter referred to as the principal Act), in clause (9-b), the existing Explanation shall be re-numbered as Explanation I and after Explanation I as so re-numbered, the following Explanation shall be inserted, namely:—

“*Explanation II*—For the purposes of conversion, one maund shall be equal to 37.3242 kilograms.”

Amendment of section 23. 3. In section 23 of the principal Act,—

(a) in sub-section (2), the words “and may also order such portion of the penalty as he deems fit, to be paid to the transferor or his heir” shall be added at the end;

(b) in sub-section (3), for the existing proviso, the following proviso and Explanation shall be substituted, namely:—

“Provided that if the Revenue Officer is of the opinion that the restoration of the property is not reasonably practicable, he shall record his reasons therefor and shall, subject to the control of the Government, settle the said property with another member of a Scheduled Tribe or in the absence of any such member, with any other person in accordance with the provisions contained in the Orissa Government Land Settlement Act, 1962.

Orissa Act
33 of 1962.

Explanation—Restoration of the property means actual delivery of possession of the property to the transferor or his heir.”;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where any transfer is declared under this section to be invalid and the transferee or any other person in possession of the property has been evicted therefrom, the transferee shall not be entitled to the refund of any amount paid by him to the transferor by way of consideration for the transfer.”

Amendment of section 23-A and insertion of new section.

4. Section 23-A of the principal Act shall be re-numbered as section 23-B and before section 23B as so re-numbered, the following new section shall be inserted, namely:—

Eviction of person in unauthorised occupation of property.

“23-A. Where any person is found to be in unauthorised occupation of the whole or part of a holding of a raiyat belonging to a Scheduled Caste or of a raiyat belonging to a Scheduled Tribe within any part of the State other than a Scheduled Area, by way of trespass or otherwise, the Revenue Officer may, either on application by the owner or any person interested therein, or on his own motion, and after giving the parties concerned an opportunity of being heard, order eviction of the person so found to be in unauthorised occupation and shall cause restoration of the property to the said raiyat or to his heir in accordance with the provisions of sub-section (3) of section 23.”.

Amendment section 40-B.

5. In section 40-B of the principal Act, after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that a revised return, if filed by a person after confirmation of the draft statement in respect of his lands under sub-section (1) of section 44, shall not be taken into consideration.”.

Amendment of section 42.

6. In section 42 of the principal Act, in the proviso, for the word “compensation”, the word “amount” shall be substituted.

Amendment of section 43.

7. In section 43 of the principal Act, in sub-section (2), after the words “and making such enquiries as he deems necessary”, the words and commas “and after consulting the local committee, if any,” shall be inserted.

Insertion of new section 44-A.

8. After section 44 of the principal Act, the following new section shall be inserted, namely:—

Declaration under section 57-A to be produced before finalisation of statement.

“44-A. (1) Where a declaration made under section 57-A in relation to a trust is produced before the Revenue Officer by the concerned trustee at any time before the statement in respect of such trust has become final under sub-section (3) of section 44, all proceedings relating to the fixation of ceiling and determination of the surplus area in respect of such trust shall abate.

(2) Where the concerned trustee has given intimation in writing to the Revenue Officer prior to the finalisation of the said statement about the pendency of proceedings under section 57-A relating to a trust, all proceedings relating to the fixation of ceiling and determination of the surplus area in respect of such trust shall abate and any action taken in furtherance of such proceedings shall be of no effect.

(3) A declaration as aforesaid which is obtained or produced before the Revenue Officer after the statement in respect of the concerned trust has become final under sub-section (3) of section 44, shall, except where the concerned trustee has given intimation in writing to the Revenue Officer prior to the finalisation of the said statement about the pendency of proceedings under section 57-A, be of no effect whatsoever in so far as the proceedings under this Chapter are concerned.”.

Insertion of
new section
45-B.

9. After section 45-A of the principal Act, the following new section shall be inserted, namely:—

Lands escap-
ing ceiling
proceedings
to vest along-
with surplus
lands already
vested.

“45-B. (1) If at any time within six years from the date of finalisation of the statement under sub-section (3) of section 44 relating to any person holding land in excess of ceiling area, it is found that some more lands held by such person have escaped inclusion in the above statement due to any reason whatsoever, the Revenue Officer may, after giving the person an opportunity of being heard and after making such enquiry as he deems proper, declare in the prescribed manner, the whole or any part of such lands as are found to be held by the person to be surplus land in relation to him.

(2) All lands declared to be surplus land under sub-section (1) shall be deemed to have vested in the Government free from all encumbrances along with the surplus lands mentioned in the aforesaid statement and the provisions of sections 45, 45-A and 46 to 51 shall, so far as may be, apply to the lands so vested:

Provided that the amount payable in respect of the interest of the person to whom the surplus lands relate shall be subject to reduction at the following rate :—

	Rate of reduction
(i) where the land was in occupation of the person for a period not exceeding one year from the date of finalisation of the statement under section 44 (3),	Fifty-five per centum
(ii) where the period of such occupation exceeds one year,	Fifty-five per centum plus five per centum for each year or part thereof in excess of one year.

(3) Without prejudice to the provisions of section 39, the transfer of any land declared to be surplus land under sub-section (1), by sale, gift or otherwise or the partition thereof, made or effected after the date of finalisation of the statement under sub-section (3) of section 44 shall be deemed to be void.”.

Amend-
ment of
section 51.

10. In section 51 of the principal Act, in sub-section (1), for the proviso thereto, the following provisos shall be substituted, namely:—

“Provided that where the population of the Scheduled Tribes and Scheduled Castes in a village exceeds seventy per cent of the total population of that village, the percentage of lands to be reserved for persons of the said communities shall be equal to the percentage of their population :

Provided further that if sufficient number of persons belonging to the aforesaid categories are not available in the village in which the lands are situated or, being available, are not willing to accept settlement of land, so much of the lands reserved for the said persons as cannot be settled with them may be settled with other persons :

Provided also that the Collector of a district may, with the prior approval of the Government, set apart any of the said surplus lands for being utilised for any public purpose, other than the purpose of cultivation, and thereupon the remaining surplus lands shall be settled in accordance with the provisions of this section."

Amendment
of section
53.

11. In section 53 of the principal Act, in sub-section (2), after the words "They shall", the words and commas "unless the Commission is sooner reconstituted," shall be inserted.

Amendment
of section
57.

12. In section 57 of the principal Act, for sub-section (2), the following sub-section and proviso shall be substituted, namely:—

"(2) The Revenue Officers and other authorities shall have the power to award costs in proceedings before them in accordance with rules made in that behalf:

Provided that if an appellate authority is satisfied that any appeal has been preferred on frivolous grounds, it shall award such cost as it deems fit, the amount of which shall not be less than fifty rupees and more than five hundred rupees."

Amendment
of section
57-A.

13. In section 57-A of the principal Act, in sub-section (3), for the existing provisos, the following provisos shall be substituted, namely:—

"Provided that no application under this sub-section shall be maintainable if,—

(a) it relates to a trust which has been created and established after the 26th day of September, 1970; or

(b) it is filed after the date of expiry of a period of six months from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1976:

Provided further that nothing in clause (a) of the preceding proviso shall affect any declaration made prior to the date of commencement of the Orissa Land Reforms (Amendment) Act, 1976."

Amendment
of section
85.

14. In section 58 of the principal Act, in sub-section (1),—

Orissa Act
30 of 1976.

(a) for the figures and brackets "23 (2)", the letters, figures and brackets "22-A (5), 23 (2), 23-A" shall be substituted,

(b) after the figure "42", the letter, figures and brackets "45-B (1)" shall be inserted

Amendment
of section 60.

15. Section 60 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Without prejudice to the provisions of sub-section (1), where the appellate authority, on application filed by the concerned party within two years from the date of finalisation of a statement under sub-section (3) of section 44 or within sixty days from the date of the appellate order, whichever period expires later, is satisfied that any land has been included in such statement in contravention of any provision of this Act, he may modify the order passed by the Revenue Officer under the said section :

Provided that no such modification shall be made without giving the parties concerned a reasonable opportunity of being heard :

Provided further that no such modification shall be made if—

(a) an application for revision under section 59 is pending, or

(b) an order has been passed under that section.”.

Amendment
of sec-
tion 63.

16. In section 63 of the principal Act, in sub-section (2), for the words “within a period of sixty days”, the words “within a period of thirty days” shall be substituted.

Amendment
of sec-
tion 67.

17. In section 67 of the principal Act, for the words “to entertain” the words “to try and decide” shall be substituted.

Amendment
of sec-
tion 68.

18. In section 68 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) Whoever, after having been evicted under section 23 or under section 23-A from any holding of a raiyat belonging to a Scheduled Tribe or a Scheduled Caste, reoccupies the same without a valid transfer made in his favour, shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or with both.”.

Certain
amendments
effected by
Orissa Act
29 of 1976 to
have retro-
spective
effect.

19. The amendment of section 45 of the principal Act and the insertion of new section 45-A therein which were made respectively by sections 18 and 19 of the Orissa Land Reforms (Second Amendment) Act, 1975, shall be deemed to have been effective from the 1st day of April, 1976 and all actions taken and things done during the period between the 1st day of April, 1976 and the 19th day of May, 1976 in pursuance of the said sections 45 and 45-A shall be deemed to have been taken and done under the said sections as so amended or inserted, as the case may be.

Orissa Act
29 of 1976

Savings

20. Notwithstanding the amendment of section 63 of the principal Act by this Act, the period of limitation in respect of an appeal or an application for revision as referred to in that section, against an order passed prior to the date of commencement of this Act, shall be sixty days from the date of the order.